

listing of \$1 strike prices in option classes participating in the \$1 Strike Program, and the listing of series of FLEX options.

The Exchange believes that the proposed rule change implementing range limitation strategies for equity, ETF, and TIR options should be beneficial in reducing quote traffic on the Exchange and in the options industry.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act's⁹ requirements that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the Exchange believes that codifying certain range limitation provisions of the OLPP, as amended, serves to foster investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)(iii) thereunder.¹³

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2010-01 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2010-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2010-01 and should be submitted on or before February 11, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61363; File No. PCAOB-2009-02]

Public Company Accounting Oversight Board; Order Approving Proposed Rules on Auditing Standard No. 7, Engagement Quality Review, and Conforming Amendment

January 15, 2010.

I. Introduction

On August 4, 2009, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "Commission") a notice (the "Notice") of proposed rules (File No. PCAOB-2009-02) on Auditing Standard No. 7, *Engagement Quality Review*, and Conforming Amendment to the Board's Interim Quality Control Standards, pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"). Notice of the proposed rules was published in the **Federal Register** on November 5, 2009.¹ The Commission received nine comment letters relating to the proposed rules. For the reasons discussed below, the Commission is granting approval of the proposed rules. As specified by the Board, the rules are

¹⁴ 17 CFR 200.30-3(a)(12).

¹ See SEC Release No. 34-60903 (October 29, 2009); 74 FR 57357 (November 5, 2009).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

effective for the engagement quality review (“EQR”) of audits and interim reviews for fiscal years beginning on or after December 15, 2009.

II. Description

Section 103 of the Act directs the Board, among other things, to set standards for public company audits, including a requirement for each registered public accounting firm to “provide a concurring or second partner review and approval of [each] audit report (and other related information), and concurring approval in its issuance * * *.” According to the Board, the proposed rules would strengthen and expand the Board’s existing requirements for concurring reviews.

According to the Board, a well-performed EQR can serve as an important safeguard against erroneous or insufficiently supported audit opinions and, accordingly, can contribute to audit quality. As described in the Notice, the engagement quality review will serve as a meaningful check on the work performed by the engagement team, and the Board believes this should increase the likelihood that a registered public accounting firm will identify any significant engagement deficiencies before it issues its audit report.

Auditing Standard No. 7 requires the engagement quality reviewer (or the “reviewer”) to evaluate the significant judgments made and related conclusions reached by the engagement team in forming the overall conclusion on the engagement and in preparing the engagement report. Auditing Standard No. 7 also requires the engagement quality reviewer to perform certain procedures designed to focus the reviewer on those judgments and conclusions. As discussed in the Notice, the procedures required of an engagement quality reviewer are different in nature from the procedures required of the engagement team. Unlike the engagement team, a reviewer does not perform substantive procedures or obtain sufficient evidence to support an opinion on the financial statements or internal control over financial reporting. If more audit work is necessary before the reviewer may provide concurring approval of issuance, the engagement team—not the reviewer—is responsible under PCAOB standards for performing the work. In contrast, the reviewer fulfills the obligation to perform an EQR by holding discussions with the engagement team, reviewing documentation, and determining whether to provide concurring approval of issuance.

The proposed rules also amend the Board’s interim quality control standards by replacing the third sentence of paragraph 18 of QC section 20, “System of Quality Control for a CPA Firm’s Accounting and Auditing Practice” with a statement that a firm’s quality control policies and procedures also should address engagement quality reviews pursuant to PCAOB Auditing Standard No. 7.

III. Discussion

The Commission received nine comment letters on the proposed rules. Seven letters were received from registered public accounting firms, and two letters were received from professional organizations.² The commenters generally agreed with the requirements of Auditing Standard No. 7 and also expressed agreement with the changes made by the PCAOB in response to its comment process.³

PCAOB Use and Purpose of Release Text

Many of the comments indicated that there is a lack of clarity resulting from perceived inconsistencies between Auditing Standard No. 7 and text in the Board’s adopting release.⁴ One commenter expressed a concern whether the release text has the “same weight” as the standard itself.⁵ One commenter expressed a concern that the release text issued with an adopted standard is not subject to the PCAOB’s comment process.⁶

The release text summarizes issues that the Board considered significant in reaching the conclusions set forth in the standard, including responses to comments and the rationale for

² See comments of Deloitte & Touche LLP (“Deloitte”), Ernst & Young LLP (“EY”), Grant Thornton LLP (“Grant”), KPMG LLP (“KPMG”), McGladrey & Pullen LLP (“McGladrey”), Piercy Bowler Taylor & Kern (“PBTK”), PricewaterhouseCoopers LLP (“PWC”), Center for Audit Quality (“CAQ”), and Center for Capital Markets Competitiveness of the U.S. Chamber of Commerce (“CCMC”).

³ One commenter (CCMC) provided comments related to the PCAOB’s standard-setting process in general, including due process and convergence with international auditing standards. These comments were similar to comments received by the PCAOB during its standard-setting process for Auditing Standard No. 7. In response, the PCAOB stated in its adopting release for Auditing Standard No. 7 that it continuously endeavors to improve its processes, including the standard-setting process, and is considering comments it receives. The Commission encourages the Board to continue to consider comments to improve the Board’s standard-setting process. The Commission will continue to provide oversight as the Board endeavors to improve all of its processes.

⁴ See comments of CAQ, CCMC, Deloitte, EY, Grant, KPMG, McGladrey, and PWC.

⁵ See comments of PBTK.

⁶ See comments of CCMC.

accepting certain approaches and rejecting others. The Commission publishes notice of and approves the “Rules of the Board” as defined in Section 2(a)(13) of the Act, including the auditing standards adopted by the Board. The release text accompanying the Board’s issuance of an auditing standard is not part of the “Rules of the Board” that are approved by the Commission; rather, it is a statement made by the PCAOB to provide insight into the Board’s decisionmaking process.

Documentation of the EQR

Commenters generally expressed agreement with the documentation requirement as set forth in Auditing Standard No. 7.⁷ Many of the same commenters, however, expressed concerns regarding an example in the PCAOB’s adopting release that describes the documentation requirement for significant engagement deficiencies identified by the engagement quality reviewer. The release states that “the EQR documentation should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand, e.g., the significant deficiency identified, how the reviewer communicated the deficiency to the engagement team, why such matter was important, and how the reviewer evaluated the engagement team’s response.”

Commenters were concerned that the example in the release could be read to be inconsistent with the requirement in the standard and could result in unintended consequences in terms of performance. The primary concern was that the engagement quality reviewer may be compelled to document every interaction with the engagement team, not knowing whether a matter will ultimately be identified as a significant engagement deficiency. Commenters viewed this as a documentation requirement for an EQR that is incremental to the requirements of PCAOB Auditing Standard No. 3, *Audit Documentation*. Auditing Standard No. 3 does not require the auditor to document each discussion and preliminary conclusion.

In addition, one commenter was concerned that the example provided in the PCAOB’s adopting release may disrupt the communication between the engagement team and the engagement quality reviewer.⁸ The commenter expressed a view that, if unable to

⁷ See comments of CAQ, Deloitte, EY, Grant, KPMG, McGladrey, and PWC.

⁸ See comments of KPMG.

determine which matters may be significant, the engagement quality reviewer would need to document every issue and therefore would not perform any review procedures until the engagement team completed all audit work and finalized all of its conclusions.

The Commission does not believe that there is any inconsistency between the example in the adopting release and the requirements of Auditing Standard No. 7. The PCAOB specified in its adopting release that the example applies “if a reviewer identified a significant engagement deficiency to be addressed by the engagement team.” We believe that documentation suggested in the example from the adopting release is appropriate after the engagement quality reviewer has concluded that he or she has identified a significant engagement deficiency. However, since several comments were related to this point, we encourage the PCAOB to provide further implementation guidance on the documentation requirement.⁹

Standard of Care

Commenters generally expressed agreement with the revisions that the PCAOB made to the description of due professional care in the standard in response to comments, including establishing the expected standard of performance by referring to AU Section 230, *Due Professional Care in the Performance of Work* (“AU 230”).¹⁰ However, many of the same commenters expressed concern with language in the adopting release about the concept of due professional care. Particularly, many commenters pointed to language in the adopting release that a qualified reviewer who has performed the required review with due professional care “will, necessarily, have discovered any significant engagement deficiencies that could reasonably have been discovered under the circumstances.” Certain commenters expressed a view that the language in the release could be read as requiring absolute assurance or a “flawless” review.¹¹

The Commission believes that the PCAOB adequately responded to comments in this area during its reproposal process. We do not find any inconsistency between the PCAOB’s adopting release and the requirement to conduct the EQR with due professional

care as described in paragraphs 12 and 17 of Auditing Standard No. 7. Paragraph 12 of Auditing Standard No. 7 references AU 230, which is the source of guidance regarding due professional care in the PCAOB’s interim auditing standards. Moreover, the PCAOB specified in its adopting release that “the Board is not redefining due professional care in the context of the EQR standard.”

Definition of Partner

One commenter suggested that the PCAOB revise the description of the qualifications of the engagement quality reviewer in Auditing Standard No. 7 to specify that equity ownership in the firm is not a requirement for a reviewer.¹² The commenter believed Board language in its adopting release on the distinction between “partner” and “non-partner” could be considered “muddying and potentially biasing (and perhaps unintended) restrictive language.”

The discussion of requiring a partner or an individual in an equivalent position to perform the EQR is consistent with the Commission’s independence rules.¹³ We do not believe that equity ownership is necessarily inherent in the analysis; rather the analysis of whether an individual is a partner or in an equivalent position is based on the organization of the individual firm and other related facts and circumstances.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed PCAOB Rules on Auditing Standard No. 7, *Engagement Quality Review*, and Conforming Amendment (File No. PCAOB–2009–02) are consistent with the requirements of the Act and the securities laws and are necessary or appropriate in the public interest or for the protection of investors.

It is therefore ordered, pursuant to Section 107 of the Act and Section 19(b)(2) of the Exchange Act, that the proposed PCAOB Rules on Auditing Standard No. 7, *Engagement Quality Review*, and Conforming Amendment (File No. PCAOB–2009–02) be and hereby are approved.

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2010–1028 Filed 1–20–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61349; File No. SR–CBOE–2010–004]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Trading Hours for CBSX

January 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² notice is hereby given that on January 12, 2010, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by CBOE. CBOE has submitted the proposed rule change under Section 19(b)(3)(A) of the Act³ and Rule 19b–4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify trading hours for the CBOE Stock Exchange (“CBSX”). The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/Legal>), at the Exchange’s Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

⁹ We note clarifications have been provided in other contexts. For example, see PCAOB Staff Q&A at http://www.pcaobus.org/Standards/Staff_Questions_and_Answers/2009/09-02_FASB_Codification.pdf.

¹⁰ See comments of CAQ, Deloitte, EY, Grant, KPMG, and PWC.

¹¹ See comments of Deloitte, Grant, and KPMG.

¹² See comments of PBTk.

¹³ 17 CFR 210.2–01(f)(7)(ii).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4(f)(6).