

regulatory organization has given the Commission written notice of its intent to file 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>11</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission notes that the proposed rule change is substantially similar to a proposed rule change previously submitted by NYSE Arca which was published for notice and comment in the **Federal Register**.<sup>12</sup> The Commission notes that it did not receive any comments on the NYSE Arca proposal, and does not believe the Exchange's proposal raises any new or novel issues. Further, as noted above, because of the inadvertent assignment risk, market participants could not trade previously approved American style FLEX Options expiring on Expiration Friday. The proposal seeks to mitigate such assignment risks by limiting certain FLEX transactions to closing only, thereby allowing the trading of previously approved FLEX Options. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and therefore, designates the proposed rule change operative upon filing.<sup>13</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may

temporarily suspend 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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-141 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-Phlx-2010-141. 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 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 Web site viewing and printing 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 such filing also will be available for inspection and copying at the principal office of the Exchange. 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 No. SR-Phlx-2010-

141 and should be submitted on or before November 16, 2010.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-27066 Filed 10-25-10; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63138; File No. SR-CBOE-2010-092]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the \$.50 Strike Price Program

October 20, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on October 12, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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

CBOE proposes to amend Rule 5.5 to: (i) Expand the \$0.50 Strike Program for strike prices below \$1.00; (ii) extend the \$0.50 Strike Program to strike prices that are \$5.50 or less; (iii) extend the prices of the underlying security to at or below \$5.00; and (iv) extend the number of options classes overlying 20 individual stocks. The text of the rule proposal is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's principal office, and at the Commission's Public Reference Room.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> See Securities Exchange Act Release No. 62321 (June 17, 2010), 75 FR 36130 (June 24, 2010) (SR-NYSEArca-2010-46).

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

## 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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of this proposed rule change is to modify Interpretation and Policy .01 to Rule 5.5 to expand the \$0.50 Strike Program in order to provide investors with opportunities and strategies to minimize losses associated with owning a stock declining in price.

The Exchange is proposing to establish strike price intervals of \$0.50, beginning at \$0.50 for certain options classes where the strike price is \$5.50 or less and whose underlying security closed at or below \$5.00 in its primary market on the previous trading day and which have national average daily volume that equals or exceeds 1,000 contracts per day as determined by The Options Clearing Corporation ("OCC") during the preceding three calendar months. The Exchange also proposes to limit the listing of \$0.50 strike prices to options classes overlying no more than 20 individual stocks as specifically designated by the Exchange.

Currently, Rule 5.5.01(b) permits strike price intervals of \$0.50 or greater beginning at \$1.00 where the strike price is \$3.50 or less, but only for option classes whose underlying security closed at or below \$3.00 in its primary market on the previous trading day and which have national average daily volume that equals or exceeds 1,000 contracts per day as determined by OCC during the preceding three calendar months. Further, the listing of \$0.50 strike prices is limited to options classes overlying no more than 5 individual stocks as specifically designated by the Exchange. The Exchange is currently restricted from listing series with \$1 intervals within \$0.50 of an existing strike price in the same series, except that strike prices of \$2, \$3, and \$4 shall be permitted within \$0.50 of an existing

strike price for classes also selected to participate in the \$0.50 Strike Program.<sup>5</sup>

The number of \$0.50 strike options traded on the Exchange has continued to increase since the inception of the Program. There are now approximately 25 classes that participate in the \$0.50 Strike Program listed, and traded, across all options exchanges including CBOE; 2 of which are classes chosen by CBOE for the \$0.50 Strike Program. The current proposal would expand \$0.50 strike offerings to market participants, such as traders and retail investors, and thereby enhance their ability to tailor investing and hedging strategies and opportunities in a volatile marketplace.

By way of example, suppose an investor wanted to invest in 5,000 shares of Sirius Satellite ("SIRI") on July 13, 2010. The closing price for SIRI on that day was \$ 0.9678. If the investor wanted to buy a call option as an alternative to purchasing the shares outright for about \$4,800, the lowest strike price available was the \$1 strike, an out-of-the-money option. However, if a \$0.50 strike series had been available, the investor would have been able to control 5,000 shares by purchasing 50 exercisable in-the-money \$0.50 strike call options. The Exchange notes that a 3-month SIRI call option with an implied volatility of 50 has a theoretical value of \$0.47,<sup>6</sup> or \$47 per contract. Thus, the investor could have benefitted from the same upside potential as the stock purchase, but at a cost of only \$2,350 (\$47 per contract times 50 contracts).

Similarly, if an investor wanted to hedge a position in SIRI stock with put options, the lowest available strike price was the \$1 strike, an in-the-money option. If a \$0.50 strike series had been available, the investor could have used 50 out-of-the-money puts for a fraction of the cost of buying 50 put options with a \$1 strike price. The Exchange believes that investors deserve the opportunity to hedge downside risk in stocks trading less than \$1.00 in the same manner as investors have with stocks trading greater than \$1.00.

Increasing the threshold from \$3.00 to \$5.00 and expanding the number of \$0.50 strikes available for stocks under \$5.00 further aids investors by offering opportunities to manage risk and execute a variety of option strategies to improve returns. For example, today an investor can enhance their yield by selling an out-of-the-money call. Using an example of an investor who wants to hedge Citigroup ("C") which is trading at

\$4.24,<sup>7</sup> that investor would be able to choose the \$4.50 strike which is 6% out-of-the-money or they would be able to choose the \$5.00 strike which is 17.92% out-of-the-money, under this proposal. Today, this investor only has the latter choice. Beyond that, this investor today may choose the \$6.00 strike which is 41% out-of-the-money and offers significantly less premium. Pursuant to this proposal, if this investor had a choice to hedge with a \$5.50 strike option, the investor would have the opportunity to sell the option at only 29% out-of-the-money and would improve her return by gaining more premium, while also benefitting from 29% of upside return in the underlying equity.

By increasing the number of securities from 5 individual stocks to 20 individual stocks would allow the Exchange to offer investors additional opportunities to use the \$0.50 Strike Program. The Exchange notes that \$0.50 strikes have had no impact on capacity. Further, the Exchange has observed the popularity of \$0.50 strikes.

By expanding the \$0.50 Strike Program investors would be able to better enhance returns and manage risk by providing investors with significantly greater flexibility in the trading of equity options that overlie lower price stocks by allowing investors to establish equity options positions that are better tailored to meet their investment, trading and risk. The Exchange also proposes making a corresponding amendment to Rule 5.5.01(a)(2) to add \$5 and \$6 to \$1 Strike Program language that addresses listing series with \$1 intervals within \$0.50 of an existing strike price in the same series. Currently, and to account for the overlap with the \$0.50 Strike Program, the following series are excluded from this prohibition: Strike prices of \$2, \$3, and \$4. The Exchange proposes to add \$5 and \$6 to that list to account for the proposal to expand the \$0.50 Strike Program to a strike price of \$5.50.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act<sup>8</sup> and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of

<sup>7</sup> This was the price for C on July 14, 2010.

<sup>8</sup> 15 U.S.C. 78s(b)(1).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> See Rule 5.5.01(a)(2) referring to \$1 Strike Program.

<sup>6</sup> Using a Black Scholes pricing model.

trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that amending the current \$0.50 Strike Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities. Investors would be provided with an opportunity to minimize losses associated with declining stock prices which do not exist today. With the increase in active, low-prices securities, the Exchange believes that amending the \$0.50 Strike Program to allow a \$0.50 strike interval below \$1 for strike prices of \$5.50 or less is necessary to provide investor additional opportunity to minimize and manage risk.

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

CBOE does not believe that the proposed rule change will impose any burden on competition 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*

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is

consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.<sup>13</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2010-092 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-CBOE-2010-092. 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 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 Web site viewing and printing 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 Exchange. 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-CBOE-2010-092 and should be submitted on or before November 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63136; File No. SR-NYSEAmex-2010-98]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC To Expand the \$0.50 Strike Price Program**

October 20, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on October 18, 2010, NYSE Amex LLC ("NYSE Amex" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 amend Commentary .06 to NYSE Amex Options Rule 903 to expand the \$.50 Strike Price Program as described below. The text of the proposed rule change is available at the Exchange, on the Commission's Web site at <http://www.sec.gov>, at the

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). 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 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 this requirement.

<sup>13</sup> See Securities Exchange Act Release No. 63132 (October 19, 2010) (SR-Phlx-2010-118) (order approving expansion of \$.50 Strike Price Program).

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).