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 website 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–ISE–2011–06 and should be submitted on or before February 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–2118 Filed 1–31–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63772; File No. SR–CBOE–2011–006]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Listing of Option Series With $1 Strike Prices

January 25, 2011.

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, 2011, 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 [3] and Rule 19b–4(f)(6) thereunder.[4] 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 its rules regarding the listing of $1 strike prices. 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.

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 Exchange proposes to amend Interpretation and Policy .01 to Rule 5.5 to improve the operation of the $1 Strike Program.

Currently, the $1 Strike Program only allows the listing of new $1 strikes within $5 of the previous day's closing price. In certain circumstances this has led to situations where there are no at-the-money $1 strikes for a day, despite significant demand. For instance, on November 15, 2010, the underlying shares of Isilon Systems Inc. opened at $33.83. It had closed the previous trading day at $26.29. Options were available in $1 intervals up to $31, but because of the restriction to only listing within $5 of the previous close, the following strikes were not permitted to be added during the day: $32, $33, $34, $36, $37 and $38.

The Exchange proposes that $1 interval strike prices be allowed to be added immediately within $5 of the official opening price in the primary listing market. Thus, on any day, $1 Strike Program strikes may be added within $5 of either the opening price or the previous day's closing price. On occasion, the price movement in the underlying security has been so great that listing within $5 of either the previous day's closing price or the day's opening price will leave a gap in the continuity of strike prices. For instance, if an issue closes at $14 one day, and the next day opens above $27, the $21 and $22 strikes will be more than $5 from either benchmark. The Exchange proposes that any such discontinuity be avoided by allowing the listing of all $1 Strike Program strikes between the closing price and the opening price.

Additionally, issues that are in the $1 Strike Program may currently have $2.50 interval strike prices added that are more than $5 from the underlying price or are more than a nine months to expiration (long-term options series). In such cases, the listing of a $2.50 interval strike may lead to discontinuities in strike prices and also a lack of parallel strikes in different expiration months of the same issue. For instance, under the current rules, the Exchange may list a $12.50 strike in a $1 Strike Program issue where the underlying price is $24. This allowance was provided to avoid too large of an interval between the standard strike prices of $10 and $15. The unintended consequence, however, is that if the underlying price should decline to $16, the Exchange would not be able to list a $12 or $13 strike. If the underlying stayed near this level at expiration, a new expiration month would have the $12 and $13 strike but not the $12.50, leading to a disparity in strike intervals in different months of the same option class. This has also led to investor confusion, as they regularly request the addition of inappropriate strikes so as to roll a position from one month to another at the same strike level.

To avoid this problem, the Exchange may not list series with $2.50 intervals (*e.g.,* $12.50, $17.50) below $50 under Interpretation and Policy .05 of Rule 5.5 ($2.50 Strike Price Program) for any issue included within the $1 Strike Program, including long term option series. At each standard $5 increment strike more than $5 from the price of the underlying security, the Exchange proposes to list the strike $2 above the standard strike for each interval above the price of the underlying security, and $2 below the standard strike, for each interval below the price of the underlying security, provided it meets the Options Listing Procedures Plan ("OLPP") Provisions in Rule 5.5A.[5] For

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] Rule 5.5A codifies the limitation on strike price ranges outlined in the OLPP, which, except in limited circumstances, prohibits options series with an exercise price more than 100% above or below

instance, if the underlying security was trading at $19, the Exchange could list, for each month, the following strikes: $3, $5, $8, $10, $13, $14, $15, $16, $17, $18, $19, $20, $21, $22, $23, $24, $25, $27, $30, $32, $35, and $37.

Instead of $2.50 strikes for long-term options, the Exchange proposes to list one long-term $1 Strike option series strike in the interval between each standard $5 strike, with the $1 Strike being $2 above the standard strike price for each interval above the price of the underlying security, and $2 below the standard strike price, for each interval below the price of the underlying security. In addition, the Exchange may list the long-term $1 strike which is $2 above the standard strike just below the underlying price at the time of listing, and may add additional long term options series strikes as the price of the underlying security moves, consistent with the OLPP. For instance, if the underlying is trading at $21.25, long-term strikes could be listed at $15, $18, $20, $22, $25, $27, and $30. If the underlying subsequently moved to $22, the $32 strike could be added. If the underlying moved to $19.75, the $13, $10, $8, and $5 strikes could be added.

The Exchange also proposes that additional long-term option strikes may not be listed within $1 of an existing strike until less than nine months to expiration.

Finally, the Exchange represents that it has the necessary systems capacity to support the small increase in new options series that will result from the proposed changes to the $1 Strike Program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act [6] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] requirements that the rules of an exchange be designed to promote just and equitable principles of 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. In particular, the proposed rule change seeks to reduce investor confusion and address issues that have arisen in the operation of the $1 Strike Program by providing a consistent application of strike price intervals for issues in the $1 Strike Program.

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 [9] and Rule 19b–4(f)(6) thereunder.[10]

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.[11] Therefore, the Commission designates the proposal operative upon filing.[12]

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.* Please include File Number SR–CBOE–2011–006 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–2011–006. 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

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the price of the underlying security if that price is $20 or less. If the price of the underlying security is greater than $20, the Exchange shall not list new options series with an exercise price more than 50% above or below the price of the underlying security.

[6] 15 U.S.C. 78s(b)(1).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 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.

[11] *See* Securities Exchange Act Release No. 63773 (January 25, 2011) (SR–NYSEAmex–2010–109). *See also* Securities Exchange Act Release No. 63770 (January 25, 2011) (SR–NYSEArca–2010–106).

[12] 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).

available publicly. All submissions should refer to File Number SR–CBOE–2011–006 and should be submitted on or before February 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–2119 Filed 1–31–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63773; File No. SR–NYSEAmex–2010–109]

Self-Regulatory Organizations; NYSE Amex LLC; Order Granting Approval of Proposed Rule Change Regarding the Listing of Options Series With $1 Strike Prices

January 25, 2011.

I. Introduction

On November 24, 2010, NYSE Amex LLC ("NYSE Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to allow the Exchange to modify the operation of the $1 Strike Price Program. The proposed rule change was published for comment in the **Federal Register** on December 14, 2010.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NYSE Amex has proposed to amend Rule 903 Commentary .06 to modify the operation of the $1 Strike Price Program.

Currently, the $1 Strike Price Program allows the listing of new series with strikes at $1 intervals only if such series have strike prices *within $5 of the previous day's closing price in the primary listing market.*[4] The proposal would allow the Exchange also to: (a) List new series with $1 interval strike prices *within $5 of the official opening price in the primary listing market,* and (b) add $1 interval strike prices *between the closing price and the opening price,* regardless of whether such strikes are within $5 of the previous day's closing price or the day's opening price.

In support of allowing the listing of $1 interval strike between the closing and opening prices, the Exchange stated that, on occasion, the price movement in an underlying security has been so great that listing series with strikes within $5 of the previous day's closing price and the day's opening price would leave a gap in the continuity of strike prices. Thus, if an issue closes at $14 one day, and the next day opens above $27, the $21 and $22 strikes would be more than $5 from either benchmark. The Exchange proposed that any such discontinuity be avoided by allowing the listing of options on all $1 interval strike prices that fall between the previous day's closing price and the opening price.

The Exchange also has proposed to prohibit the listing of $2.50 interval strikes below $50 in all classes chosen for the $1 Strike Price Program, and in all long-term option series. According to the Exchange, this change is designed to eliminate discontinuities in strike prices and a lack of parallel strikes in different expiration months of the same issue. Currently, Exchange rules provide that the Exchange may not list series within $1 strike price intervals within $0.50 of an existing strike price in the same class, unless the class in question has been selected to participate in the $0.50 Strike Program.[5] In addition, Exchange rules currently stipulate that the Exchange may not list series with $1 strike price intervals for any long-term options (*i.e.,* options having greater than nine months to expiration) under the $1 Strike Price Program.[6]

However, as the Exchange noted in its proposal, due to the prohibition on $1 strike price intervals within $0.50 of an existing strike price, the existence of series with $2.50 interval strikes for classes selected for the $1 Strike Price Program could lead to discontinuities in strike prices and a lack of parallel strikes in different expiration months of the same issue. For example, if a $12.50 strike series was open in a class selected for the $1 Strike Price Program, the Exchange would not be able to list series with a $12 or $13 strike, potentially resulting in sequence of strike prices at irregular intervals (*i.e.,* $10, $11, $12.50, $14, and $15).

To replace these now-forbidden $2.50 interval strikes, the Exchange proposes to allow the listing of one additional series within each natural $5 interval, as follows. The Exchange proposed to permit the listing of a series with a strike $2 *above* the $5-interval strike for each such $5-interval strike above the price of the underlying security at the time of listing. Conversely, the Exchange's proposal would permit the listing of a series with a strike $2 *below* the $5-interval strike for each such $5-interval strike below the price of the underlying security at the time of listing. For example, if the underlying security was trading at $19, the Exchange could list a $27 strike between the $25 and the $30 strikes, and a $32 strike between the $30 and $35 strikes; as well as a $13 strike between the $10 and $15 strikes, and an $8 strike between the $10 and $15 strikes. The Exchange also notes that each such additional series may be listed only if such listing is consistent with the Options Listing Procedures Plan ("OLPP") Provisions in Rule 903A.[7] The foregoing provisions would apply to all classes selected for the $1 Strike Price Program, both with respect to standard and long-term options. In addition, since series with $1-interval strikes are not permitted for most long-term options, the proposal would allow the Exchange to list the long-term strike that is $2 above the $5-interval just below the underlying price at the time of listing. For example, if the underlying security is trading at $21.25, this provision would allow the Exchange to add a $22 strike ($2 above the $20 strike) for the long-term option series.

In support of its proposal, the Exchange stated that the proposed rule change seeks to reduce investor confusion resulting from discontinuous strike prices that has arisen in the operation of the $1 Strike Price Program, by providing a consistent application of strike price intervals for issues in the $1 Strike Price Program.

The Exchange further represented that it has the necessary systems capacity to support the potential increase in new options series that will result from the proposed changes to the $1 Strike Price Program.

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 63463 (December 8, 2010), 75 FR 77923 ("Notice").

[4] Rule 903 Commentary .06(b).

[5] *See id.*

[6] *See id.* The standard strike interval for Long-Term Equity Option Series (LEAPs) is $2.50 where the strike price is $25 or less. *See* Rule 903 Commentary .05. However, under a separate provision of the rules, the Exchange may list series with $1 strike prices up to $5 in LEAPS in up to 200 option classes on individual stocks, provided the $1 intervals are not within $0.50 of an existing series with a $2.50 strike price. *See* Rule 903 Commentary .06(e). This provision would not change under the current proposal.

[7] Rule 903A codifies the limitation on strike price ranges outlined in the OLPP, which, except in limited circumstances, prohibits options series with an exercise price more than 100% above or below the price of the underlying security if that price is $20 or less. If the price of the underlying security is greater than $20, an exchange may not list new options series with an exercise price more than 50% above or below the price of the underlying security.