

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

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65776; File No. SR-Phlx-2011-131]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change Expanding the Short Term Option Series Program

November 17, 2011.

I. Introduction

On September 28, 2011, NASDAQ OMX PHLX LLC (“Phlx” 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 expand the Short Term Option Program (“Program”) to allow the Exchange to: (1) Select up to 30 option classes on which Short Term Option Series (“STO Series”) may be listed; and (2) open Short Term Option Series that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules. The proposed rule change was published for comment in the **Federal Register** on October 17, 2011.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposed to amend Rule 1012 (Series of Options Open for Trading) and Rule 1101A (Terms of Option Contracts) to expand the Short Term Option Series Program (“STO Program” or “Program”) to: (1) Increase from 15 to 30 the number of option classes on which STO Series may be opened; and (2) allow the Exchange to open STO Series that are opened by other securities exchanges (the “STO Exchanges”) in option classes selected by such exchanges under their respective short term option rules.

In the Notice, the Exchange stated that the principal reason for the proposed expansion is market demand for additional STO classes and series. The Exchange stated that it has had to turn away STO customers because it could not list, or had to delist, STO Series or could not open adequate STO Series because of restrictions in the STO Program.

The Exchange also stated that it has analyzed its capacity, and represented that it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁵ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposal strikes a reasonable balance between the Exchange’s desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series.

In approving this proposal, the Commission notes that Exchange has represented that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes in the Program. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange’s, OPRA’s, and vendors’ automated systems.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-Phlx-2011-131) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2011-30200 Filed 11-22-11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65772; File No. SR-CBOE-2011-086]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule To Increase the Number of Series Permitted Per Class in the Short Term Option Series Program

November 17, 2011.

I. Introduction

On September 19, 2011, the Chicago Board Options Exchange, Incorporated (“CBOE” 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 increase the number of series permitted per class in the Short Term Options Series Program. The proposed rule change was published for comment in the **Federal Register** on October 6, 2011.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The proposed rule change seeks to amend CBOE Rules 5.5 and 24.9 to increase the number of Short Term Options Series (“Weekly options”) that may be opened for each option class that participates in the Exchange’s Short Term Option Series Program (“Weekly Program”).⁴ Currently, Exchange rules

⁶ 15 U.S.C. 78s(b)(2).

⁷ 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. 65445 (September 30, 2011), 76 FR 62102 (“Notice”).

⁴ In 2005, the Commission approved the Weekly Program on a pilot basis. See Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR-CBOE-2004-63). In 2009, the Commission approved the Weekly Program on a permanent basis. See Securities Exchange Act

¹¹ 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. 65529 (October 11, 2011), 76 FR 64144 (“Notice”).

allow a total of 20 series to be opened for trading in each class that participates in the Weeklys Program. The proposed rule would increase this to a total of 30 series per class that may be opened for trading.⁵

In the Notice, the Exchange stated that the principal reason for the proposed expansion is market demand for additional series in Weekly option classes in which the maximum number of series (20) has already been reached. Specifically, CBOE cited an increased demand for more series when market-moving events, such as corporate events and large price swings, have occurred during the life span of an affected Weekly option class. Currently, if the maximum number of series has been reached, the Exchange must delete or delist certain series in order to make room for more in-demand series. The Exchange deletes series with no open interest and delists series with open interest if those series are open for trading on another exchange.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove

Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR-CBOE-2009-018).

⁵ The Exchange previously increased the total number of series per Weeklys option class from seven to 20 series. See Securities Exchange Act Release No. 58870 (October 28, 2008), 73 FR 65430 (November 3, 2008) (SR-CBOE-2008-110). The existing rules provide that series must be added pursuant to CBOE Rules 5.5 and 24.9. Initial series shall be within 30% above or below the closing price of the underlying security on the preceding day. Any additional strikes listed by the Exchange shall be within 30% above or below the current price of the underlying security. The existing rules also provide that the Exchange may open additional strikes of Short Term Options Series that are more than 30% above or below the current price of the underlying security if demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-Makers trading for their own account are not considered when determining customer interest.

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposal strikes a reasonable balance between the Exchange's desire to offer a wider array of products and the need to avoid unnecessary proliferation of options series.

In approving this proposal, the Commission notes that the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of series for classes that participate in the Weeklys Program. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-CBOE-2011-086) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65789; File No. SR-OCC-2011-14]

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Clearing Options on the CBOE Silver Volatility Index

November 18, 2011.

I. Introduction

On September 27, 2011, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2011-14 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")¹ and Rule 19b-4 thereunder.² The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change as amended.

II. Description

The purpose of the proposed rule change is to remove any potential cloud on the jurisdictional status of options on the CBOE Silver ETF Volatility Index, which is an index that measures the implied volatility of options on the iShares Silver Trust, an exchange-traded fund designed to reflect the performance of the price of silver.³ To accomplish this purpose, OCC is proposing to amend the interpretation and policy following the introduction in Article XVII of OCC's By-Laws to clarify that OCC will clear and treat as securities options any option contracts on the CBOE Silver ETF Volatility Index. On June 14, 2010, the Commission approved rule filing SR-OCC-2010-07, which added the existing interpretation, which relates to the treatment and clearing of options on the CBOE Gold ETF Volatility Index.⁴

In its capacity as a "derivatives clearing organization" registered as such with the CFTC, OCC has filed this proposed rule change for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act (the "CEA") in order to foreclose any potential liability under the CEA based on an argument that the clearing by OCC of such options as securities options constitutes a violation of the CEA.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative transactions.⁵ The proposed rule change is similar to a proposed rule change the Commission approved previously with respect to the jurisdictional status CBOE Gold ETF Volatility Index and clarifies that OCC will clear and treat as securities any relative performance index, including in situations in which one of the reference securities of a relative performance index is an ETF designed to measure the return of gold

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The staff notes that on August 11, 2011, the Commission issued an Order granting approval of a proposed rule change to trade options on the CBOE Silver ETF Volatility Index. See Securities Exchange Act Release No. 34-65116, 76 FR 51099 (August 17, 2011).

⁴ Securities Exchange Act Release No. 62290 (June 14, 2010), 75 FR 35861 (June 23, 2010).

⁵ 15 U.S.C. 78a-1(b)(3)(F).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).