

All submissions should refer to File Number SR-CBOE-2012-068. This file number should be included on the subject line if email 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 10:00 a.m. and 3:00 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-2012-068 and should be submitted on or before August 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67482; File No. SR-CBOE-2012-042]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change To List and Trade CBOE S&P 500 AM/PM Basis Options

July 20, 2012.

#### I. Introduction

On May 23, 2012, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission

("Commission"), 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> a proposed rule change relating to the listing and trading of cash-settled CBOE S&P 500 AM/PM Basis ("SPBAS") options. The proposed rule change was published for comment in the **Federal Register** on June 6, 2012.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

CBOE proposes to list and trade SPBAS options that reflect the difference between the Special Opening Quotation ("SOQ") of the S&P 500 Index<sup>4</sup> and the closing level of the S&P 500 Index on the last trading day for SPBAS options (typically the third Friday of the month).

##### *Design of the Product*

At expiration, SPBAS options will settle against the following index calculation:  $SPBAS = \text{MAX}(100 + (\text{SOQ of S\&P 500}) - (\text{Closing Value of S\&P 500}), 0)$ . In other words, SPBAS is the greater of (1) the SOQ of a.m.-settled S&P 500 Index ("SPX") options minus the closing value of SPX plus 100 and (2) zero. The Exchange notes that this formulation ensures that the settlement value for SPBAS options can never be less than zero.

Because SPBAS options settle to the difference between the SOQ of the S&P 500 Index and the closing level of the S&P 500 Index on the third Friday of each month, an intraday value for SPBAS options will not be disseminated. Rather, prior to the open on all trading days other than the last trading day (typically the third Friday of the month), CBOE will disseminate a single value of 100 for SPBAS options through the Options Price Reporting Authority ("OPRA"), the Consolidated Tape Association ("CTA") tape and/or the Market Data Index ("MDI") feed. After the close of trading on the last trading day, CBOE will disseminate the exercise settlement value (calculated as described above) for the expiring contract.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 67084 (May 31, 2012), 77 FR 33541 (June 6, 2012) ("Notice").

<sup>4</sup> The SOQ is calculated per normal index calculation procedures and uses the opening (first) reported sales price in the primary market of each component stock in the index on the last business day (usually a Friday) before the expiration date. If a stock in the index does not open on the day on which the exercise-settlement value is determined, the last reported sales price in the primary market is used to calculate the exercise-settlement value.

#### *Options Trading*

SPBAS options will be quoted in points and fractions and one point will equal \$100. The contract multiplier will be \$100. The minimum tick size for series trading below \$3 will be 0.05 (\$5.00) and above \$3 will be 0.10 (\$10.00). The Exchange also proposes to list series at \$1 or greater where the strike price is \$200 or less and \$5 or greater where the strike price is greater than \$200.<sup>5</sup>

Initially, the Exchange proposes to list in-, at- and out-of-the-money strike prices (where the "at-the-money" strike price is 100) and may open for trading up to twelve near term expiration months.<sup>6</sup> New series will be added in accordance with Rule 29.4.01(d), which requires exercise prices to be reasonably related to the current value of the underlying index at the time new series are first opened for trading. Rules 24.9.01(d) and 24.9.04 will apply to the listing of additional series for SPBAS options. However, for purposes of those provisions, the Exchange proposes that the "current index value" will be 100, since that is the single value for SPBAS option that CBOE will disseminate during the life of an option. Rule 24.9.04 will generally bound the listing of additional series to within 30% of the current index value.<sup>7</sup> The Exchange also proposes to list LEAPS.

The Exchange states that it currently intends to trade SPBAS options electronically on the Hybrid Platform with a Designated Market Maker appointed to the class. Prior to the product launch, the Exchange represents that it will issue a circular announcing the specific trading platform and other relevant trading information concerning SPBAS options.

#### *Trading Hours, Exercise and Settlement*

The proposed options will expire on the Saturday following the third Friday of the expiring month and be cash-settled, P.M.-settled, and European-style. The trading hours for SPBAS options will be from 8:30 a.m. (Chicago time) to 3:15 p.m. (Chicago time), except that trading in expiring SPBAS options will close at 3:00 p.m. (Chicago time) on

<sup>5</sup> See proposed amendment to Rule 24.9.01(e) (Terms of Index Options Contracts). The Exchange also proposes to add new Interpretation and Policy .21 to Rule 5.5 (Series of Option Contracts Open for Trading), which will be an internal cross reference stating that the intervals between strike prices for SPBAS option series will be determined in accordance with Interpretation and Policy .01(e) to Rule 24.9.

<sup>6</sup> See proposed amendment to Rule 24.9(a)(2) (Terms of Index Options Contracts).

<sup>7</sup> The rule also provides the Exchange with the ability to add additional strikes in response to customer demand.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

their last trading day.<sup>8</sup> When the last trading day is moved because of an Exchange holiday (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Thursday.

Exercise will result in delivery of cash on the business day following expiration. The exercise-settlement amount will be equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by the contract multiplier (\$100). SPBAS options will be p.m.-settled. The Exchange notes that it is proposing p.m.-settlement for SPBAS options because the exercise settlement value is based on the difference between the SOQ of the S&P 500 Index on the third Friday of the month and the closing value of the S&P 500 Index on the third Friday of the month. Since one of the values needed to determine the exercise settlement value for SPBAS options will not be determined until the close of trading on the third Friday of the month, the Exchange asserts that SPBAS options necessarily must be p.m.-settled.

If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value will be determined in accordance with the rules and bylaws of the OCC.

#### *Surveillance*

CBOE has represented that it will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in SPBAS options. The Exchange further represents that these surveillance procedures shall be adequate to monitor trading in options on these option products. For surveillance purposes, the Exchange has represented that it will have access to information regarding trading activity in the pertinent underlying securities (*i.e.*, S&P 500 Index component securities).

#### *Position Limits*

The Exchange does not propose to establish any position or exercise limits

for SPBAS options.<sup>9</sup> CBOE represents that SPBAS options will be subject to the same reporting and other requirements triggered for other options dealt in on the Exchange.<sup>10</sup>

#### *Exchange Rules Applicable*

Except as modified herein, the rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB will equally apply to SPBAS options.

SPBAS options will be margined as "broad-based index" options, and under CBOE rules, especially Rule 12.3(c)(5)(A), the margin requirement for a short put or call shall be 100% of the current market value of the contract plus up to 15% of the aggregate contract value. Additional margin may be required pursuant to Exchange Rule 12.10.

CBOE proposes to designate SPBAS options as eligible for trading as Flexible Exchange Options as provided for in Chapters XXIVA (Flexible Exchange Options) and XXIVB (FLEX Hybrid Trading System).<sup>11</sup>

#### *Capacity*

CBOE represents that it has analyzed its capacity and believes that the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that will result from the introduction of SPBAS options.

#### *Technical Change*

In addition to proposing to introduce SPBAS options, CBOE proposes to correct an erroneous cross-reference in Rule 24.9.01(d) that was unintentionally created. In SR-CBOE-2006-41, among other things, obsolete Interpretations and Policies to Rule 24.9 were deleted and renumbering changes were made.<sup>12</sup> Specifically, current Interpretation and Policy .04 to Rule 24.9 was formerly Interpretation and Policy .05 to Rule 24.9. A cross-reference in Rule 24.9.01(d) to former Interpretation and Policy .05 in Rule 24.9.01(d) should have been similarly renumbered (from .05 to .04) in SR-CBOE-2006-41; however, it was not. CBOE now proposes to update Rule 24.9.01(d) with the correct cross-reference to

Interpretation and Policy .04 to Rule 24.9.

### **III. Discussion and Commission Findings**

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.<sup>13</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, 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 notes that the Exchange has stated that SPBAS options are designed to enable investors to gain exposure to or hedge the basis risk between SPX options traded on CBOE and p.m.-settled S&P 500 Index ("SPXPM") options traded on C2 Options Exchange. As such, the Commission believes that CBOE's proposal gives options investors the ability to make an additional investment choice in a manner consistent with the requirements of Section 6(b)(5) of the Act.<sup>15</sup> Further, the Commission believes that the listing rules proposed by CBOE for SPBAS options are reasonable and consistent with the Act, as discussed below.

The Commission believes that permitting \$1.00 strike price intervals if the strike price is equal to or less than \$200 will provide investors with added flexibility in the trading of these options and will further the public interest by allowing investors to establish positions that are better tailored to meet their investment objectives. As CBOE explained, because the underlying interest for SPBAS options reflects the difference between the opening and closing values of the S&P 500 on the last trading day for SPBAS options, the exercise settlement value will generally be limited to a relatively narrow band of possible values. Specifically, the Exchange asserts that this difference has typically stayed within a ten-index-point range.<sup>16</sup> Because of this

<sup>8</sup> See proposed Interpretation and Policy .03 to Rule 24.6 (Days and Hours of Business). Trading in expiring SPXPM options closes at 3:00 p.m. (Chicago time) on their last day of trading. The Exchange is proposing to match the trading hours of SPBAS options with SPXPM options. See Securities and Exchange Act Release No. 65630 (October 26, 2011), 76 FR 67510 (November 1, 2011) (SR-C2-2011-030) (notice of filing and immediate effectiveness of proposed rule change to close trading at 3 p.m. Chicago time on the last day of trading of expiring SPXPM options).

<sup>9</sup> See proposed amendments to Rules 24.4 (Position Limits for Broad-Based Index Options) and 24.5 (Exercise Limits).

<sup>10</sup> See Rule 4.13 (Reports Related to Position Limits).

<sup>11</sup> See proposed amendments to Rules 24A.7 (Position Limits and Reporting Requirements), 24A.8 (Exercise Limits), 24B.7 (Position Limits and Reporting Requirements) and 24B.8 (Exercise Limits).

<sup>12</sup> See Securities Exchange Act Release No. 54000 (June 15, 2006), 71 FR 35961 (June 22, 2006) (SR-CBOE-2006-41).

<sup>13</sup> 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).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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

<sup>16</sup> See Notice, *supra* note 3 (providing data on the historical spreads between the opening and closing values of the S&P 500).

characteristic, the Commission believes that the implementation of \$1 strike price intervals for SPBAS options, within the parameters of CBOE Rule 24.9, is appropriate.<sup>17</sup>

The Commission notes that the Exchange proposes to apply its existing index rules regarding the listing of new series and additional series to SPBAS options. Specifically, exercise prices will be required to be reasonably related to the value of the underlying index and generally must be within 30% of the current index value. The Exchange has clarified that for purposes of SPBAS options, “current index value” will be 100 because that is the single value that will be disseminated for SPBAS options during the life of an option, as discussed further below. Given the design of this product, the Commission believes that this is appropriate and consistent with the Act.

The Commission notes that an intraday value for SPBAS options will not be disseminated and that, prior to the open on all trading days other than the last trading day, CBOE will disseminate a single value of 100 for SPBAS options through OPRA, the CTA and/or the MDI feed. The Commission notes further that, after the close of trading on the last trading day, CBOE will disseminate the exercise settlement value for the expiring SPBAS contract. The value of the index may vary from 100 only on the last trading day and would remain 100 on all other trading days. Moreover, because the closing value of the S&P 500 on the last trading day is a necessary component of the SPBAS option settlement value calculation, that value cannot be calculated until the end of the day on the last trading day.

The Exchange has also proposed that SPBAS options be p.m.-settled. As discussed above, the Exchange asserts that p.m.-settlement is necessary because the closing settlement value of the S&P 500 on the third Friday of the month (a necessary component of the SPBAS option settlement value) cannot be determined until the close of trading. The Commission believes that the historic concerns regarding p.m.-settlement should not be raised by the introduction of SPBAS options.<sup>18</sup>

<sup>17</sup> In addition, the Commission notes that CBOE has represented that it has analyzed its capacity and believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing and trading of \$1 strikes (where the strike price is less than \$200) for SPBAS options.

<sup>18</sup> For a detailed discussion of the Commission’s traditional concerns and policies regarding p.m.-settlement, see Securities Exchange Act Release No. 65256 (September 2, 2011), 76 FR 55969 (September 9, 2011) (SR-C2-2011-008) (“SPXPM Filing”).

The Exchange has proposed not to impose position or exercise limits on SPBAS options on the basis that SPBAS options should be treated similarly to SPX and SPXPM options, which are not subject to position or exercise limits. The Commission notes that the SPBAS exercise settlement value is based on the difference between the opening and closing values of the S&P 500 Index on expiration Fridays, and that SPX and SPXPM are based on the S&P 500 Index opening and closing values, respectively. Furthermore, as noted above, SPBAS options could be used to gain exposure to or hedge the basis risk between SPX and SPXPM options. As such, the Commission believes that CBOE’s proposal not to apply position or exercise limits to SPBAS options is appropriate and consistent with the Act.

CBOE also proposes to margin SPBAS options as broad-based index options. The Commission believes that CBOE’s proposed rules relating to margin requirements are appropriate. The Commission also believes that CBOE’s proposal to allow SPBAS options to be eligible for trading as FLEX options is consistent with the Act. The Commission previously approved rules relating to the listing and trading of FLEX options on CBOE, which give investors and other market participants the ability to individually tailor, within specified limits, certain terms of those options.<sup>19</sup>

The Commission notes that CBOE has represented that it has an adequate surveillance program to monitor trading of SPBAS options and intends to apply its existing surveillance program for index options to support the trading of these options. Further, CBOE is a member of the ISG and can obtain trading activity in information in the underlying securities (*i.e.*, S&P 500 component securities).

In approving the proposed listing and trading of SPBAS options, the Commission has also relied upon CBOE’s representation that it has the necessary systems capacity to support the new options series that will result from this proposal.

Lastly, the Commission believes that CBOE’s proposal to update CBOE Rule 24.9.01(d) with the correct cross-reference to Interpretation and Policy .04 to Rule 24.9 is consistent with the Act.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>20</sup> that the

<sup>19</sup> See Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993).

<sup>20</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-CBOE-2012-042) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Kevin M. O’Neill,**  
*Deputy Secretary.*

[FR Doc. 2012-18243 Filed 7-25-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67474; File No. SR-BX-2012-051]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

July 20, 2012.

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 July 10, 2012, NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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 Chapter XV, Section 2 entitled “BX Options Market—Fees and Rebates” to amend a Customer fee for routing options to The NASDAQ Options Market (“NOM”).

The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nasdaqtrader.com/micro.aspx?id=BXRulefilings>, at the principal office of the Exchange, 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 Exchange 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

<sup>21</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.