

### Paper Comments

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

All submissions should refer to File Number SR-NYSE-2013-01. 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 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 Number SR-NYSE-2013-01 and should be submitted on or before February 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

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

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68656; File No. SR-CBOE-2013-001]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Option Contracts Overlying 10 Shares of Certain Securities

January 15, 2013.

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 January 4, 2013, 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 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

CBOE proposes to list and trade option contracts overlying 10 shares of a security ("mini-option contracts"). 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 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 amend CBOE rules to enable the listing and trading of option

contracts overlying 10 shares of a security ("mini-option contracts"). This is a competitive filing based on filings submitted by NYSE Arca, Inc. ("NYSE Arca") and International Securities Exchange, LLC ("ISE"), which the Commission recently approved.<sup>3</sup>

Pursuant to CBOE Rule 5.5, the Exchange currently lists and trades standardized option contracts on a number of equities and exchange-traded fund shares ("ETFs") (referred to as "Units" in Rule 5.3.06), each with a unit of trading of 100 shares. The purpose of this proposed rule change is to expand investors' choices by listing and trading option contracts on a select number of high-priced and actively traded securities, each with a unit of trading ten times lower than that of standardized option contracts, or 10 shares. Specifically, the Exchange proposes to list and trade mini-options overlying five (5) high-priced securities for which the standard contract overlying the same security has significant liquidity.<sup>4</sup> The Exchange believes that mini-options will appeal to retail investors who may not currently be able to participate in the trading of options on such high priced securities. The Exchange believes that investors would benefit from the availability of mini-options contracts by making options overlying high priced securities more readily available as an investing tool and at more affordable and realistic prices, most notably for the average retail investor.

For example, with AAPL trading at \$638.17 on October 8, 2012, (\$63,817 for 100 shares underlying a standard contract), the 640 level call expiring on October 19 was trading at \$8.30. The cost of the standard contract overlying 100 shares would be \$830, which is substantially higher in notional terms than the average equity option price of \$255.02.<sup>5</sup> Proportionately equivalent mini-options contracts on AAPL would provide investors with the ability to manage and hedge their portfolio risk on

<sup>3</sup> See Securities Exchange Act Release No. 67948 (September 28, 2012) 77 FR 60735 (October 4, 2012) (Notice of Filing of Amendments No. 1 and Order Granting Accelerated Approval of Proposed Rule Changes as Modified by Amendments No. 1 to List and Trade Option Contracts Overlying 10 Shares of Certain Securities) (SR-NYSEArca-2012-64 and SR-ISE-2012-58).

<sup>4</sup> The Exchange proposes to list Mini Options on SPDR S&P 500 ("SPY"), Apple, Inc. ("AAPL"), SPDR Gold Trust ("GLD"), Google Inc. ("GOOG") and Amazon.com Inc. ("AMZN"). The Exchange notes that any expansion of the program would require that a subsequent proposed rule change be submitted to the Commission.

<sup>5</sup> Year-to-date through September 28, 2012. A high priced underlying security may have relatively expensive options, because a low percentage move in the share price may mean a large movement in the options in terms of absolute dollars.

<sup>20</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.

their underlying investment, at a price of \$83.00 per contract. In addition, investors who hold a position in AAPL at less than the round lot size would still be able to avail themselves of

options to manage their portfolio risk. For example, the holder of 50 shares of AAPL could write covered calls for five mini-options contracts. The table below demonstrates the proposed differences

between a mini-options contract and a standard contract with a strike price of \$125 per share and a bid or offer of \$3.20 per share:

|                                       | Standard         | Mini      |
|---------------------------------------|------------------|-----------|
| Share Deliverable Upon Exercise ..... | 100 shares ..... | 10 shares |
| Strike Price .....                    | 125 .....        | 125       |
| Bid/offer .....                       | 3.20 .....       | 3.20      |
| Premium Multiplier .....              | \$100 .....      | \$10      |
| Total Value of Deliverable .....      | \$12,500 .....   | \$1,250   |
| Total Value of Contract .....         | \$320 .....      | \$32      |

The Exchange believes that the proposal to list and trade mini-option contracts will not lead to investor confusion. There are two important distinctions between mini-options and standard options that are designed to ease the likelihood of any investor confusion. First, the premium multiplier for the proposed mini-options will be \$10, rather than \$100, to reflect the smaller unit of trading. To reflect this change, the Exchange proposes to add Rule 6.41(c) which notes that bids and offers for an option contract overlying 10 shares will be expressed in terms of dollars per 1/10th part of the total value of the contract. Thus, an offer of “.50” shall represent an offer \$5.00 for an option contract having a unit of trading consisting of 10 shares. Additionally, the Exchange will designate mini-option contracts with different trading symbols than their related standard contract.<sup>6</sup> The Exchange believes that the clarity of this approach is appropriate and transparent and the Exchange believes that the terms of mini-option contracts are consistent with the terms of the Options Disclosure Document. The Exchange recognizes the need to differentiate mini-option contracts from standard options and therefore is proposing the following changes to its rules.

The Exchange proposes to add new Interpretation and Policy .22(a) to Rule 5.5 (Series of Option Contracts Open for Trading) to permit the listing of mini-options after an option class on a stock, ETF share, Trust Issued Receipt (TIR), exchange-traded note (ETN) and other Index Linked Security with a 100 share deliverable has been approved for listing and trading on the Exchange. This new subparagraph also identifies the five specific securities on which the Exchange may list mini-options.

The Exchange proposes to add new Interpretation and Policy .22(b) to Rule

5.5 to reflect that strike prices for mini-options shall be set at the same level as for standard options. For example, a call series strike price to deliver 10 shares of stock at \$125 per share has a total deliverable value of \$1250, and the strike price will be set at 125. Further, pursuant to proposed new Interpretation and Policy .22(c) to Rule 5.5, the Exchange proposes to not permit the listing of additional series of mini-options if the underlying is trading at \$90 or less to limit the number of strikes once the underlying is no longer a high priced security. The Exchange proposes a \$90.01 minimum for continued qualification so that additional series of mini-options that correspond to standard strikes may be added even though the underlying has fallen slightly below the initial qualification standard. In addition, the underlying security must be trading above \$90 for five consecutive days before the listing of mini-option contracts in a new expiration month. This restriction will allow the Exchange to list strikes in mini-options without disruption when a new expiration month is added even if the underlying has had a minor decline in price.

The Exchange also proposes to add Interpretation and Policy .08 to Rule 4.11 (Position Limits) to reflect that, for purposes of compliance with the position limits set forth in Rule 4.11, ten mini-option contracts will equal one standard contract overlying 100 shares. The Exchange also proposes to add subparagraph (c) to Rule 6.41 (Meaning of Premium Bids and Offers) to extend the explanation of bids and offers with respect to mini-option contracts.

Mini-options with non-standard expiration dates (*e.g.*, weekly series, quarterly option series and LEAPs) will be permitted under this proposal and in accordance with relevant CBOE rules. CBOE may list mini-options on SPY, AAPL, GLD, GOOG and AMZN for all

expirations applicable to 100-share options on the same underlying.<sup>7</sup>

The Exchange's rules that apply to the trading of standard options would apply to mini-options and the Exchange's market maker quoting obligations would apply to mini-options.<sup>8</sup> Intermarket trade-through protection would apply to mini-options; however, price protection would not apply across standard and mini-options on an intramarket basis, as these are separate products.<sup>9</sup>

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of mini-option contracts. CBOE also understand that the OCC will be able to accommodate mini-option contracts.

The Exchange notes that the current CBOE Fees Schedule will not apply to the trading of mini-option contracts. The Exchange will not commence trading of mini-option contracts until specific fees for mini-option contracts trading have been filed with the Commission.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.<sup>10</sup> In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect

<sup>7</sup> See 77 FR at 60737.

<sup>8</sup> See CBOE Rule 8.7 and 77 FR at 60738.

<sup>9</sup> See 77 FR at 60736 and 60738.

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> The Options Clearing Corporation (“OCC”) symbology is structured for contracts with other than 100 shares to be designated with a numerical suffix to the standard trading symbol, *e.g.*, AAPL8.

the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that investors would benefit from the availability of mini-options contracts by, making options on high priced securities more readily available as an investing tool and at more affordable and realistic prices, most notably for the average retail investor. As described above, the proposal contains a number of features designed to protect investors by reducing investor confusion, such as the mini-option contracts being designated by different trading symbols from their related standard contracts. Moreover, the proposal is designed to protect investors and the public interest by providing investors with an enhanced tool to reduce risk in high priced securities. In particular, the proposed contracts will provide retail customers who invest in high priced issues in lots of less than 100 shares with a means of protecting their investments that is presently only available to those who have positions of 100 shares or more. Further, the proposal currently is limited to five high priced securities for which there is already significant options liquidity, and therefore significant customer demand and trading volume.

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

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to recently approved NYSE Arca and ISE filings. CBOE believes this proposed rule change is necessary to permit fair competition among the options exchanges.

#### *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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of

this filing, 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 Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that it can list and trade the proposed mini-option contracts as soon as it is able.<sup>14</sup> The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>15</sup> The Commission notes the proposal is substantively identical to proposals that were recently approved by the Commission, and does not raise any new regulatory issues.<sup>16</sup> For these reasons, the Commission designates the proposed rule change as operative upon filing.

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:

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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 date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>14</sup> The Commission notes that the Exchange's current Fees Schedule will not apply to the trading of mini-option contracts, and the Exchange will not commence trading of mini-option contracts until specific fees for mini-option contracts trading have been filed with the Commission.

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

<sup>16</sup> See Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR-NYSEArca-2012-64 and SR-ISE-2012-58).

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-001 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.

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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

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

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