

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58462; File No. SR-CBOE-2008-91)

September 4, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Inc. Amending CBOE Rule 52.3

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on August 27, 2008, Chicago Board Options Exchange, Inc. (“CBOE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change 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 CBOE Rule 52.3 in order to clarify a circumstance under which the Exchange will commence a trading halt in Derivative Securities Products listed and trading on the Exchange.

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 these statements may be examined at the

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 C.F.R. 240.19b-4.

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

In order to provide clarity to CBSX Traders,<sup>4</sup> the Exchange proposes to amend its Rules by adding new CBOE Rule 52.3(d), in order to clarify that the Exchange will halt trading in Derivative Securities Products<sup>5</sup> listed and trading on the CBOE Stock Exchange<sup>6</sup> (“CBSX”) when the Exchange becomes aware that the Net Asset Value (“NAV”) of the Derivative Securities Products (and in the case of managed fund shares, the disclosed portfolio) is not being disseminated to all market participants at the same time.

Specifically, with respect to Derivative Securities Products listed on CBSX for which an NAV (and in the case of managed fund shares, a disclosed portfolio) is disseminated, if the Exchange becomes aware that the NAV (or in the case of managed fund shares, the disclosed portfolio) is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product on CBSX until such time as the NAV (or in the case of managed fund shares, the disclosed portfolio, as applicable) is available to all market participants. The Exchange believes that adding this clarification to its rules promotes the just and equitable principles of trade and promotes a fair and transparent marketplace.

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<sup>4</sup> See CBOE Rule 50.3 for the definition of “CBSX Traders.”

<sup>5</sup> Pursuant to Rule 52.3(c)(5)(i), the term Derivative Securities Product includes a series of Equity-Linked Term Notes, Index-Linked Exchangeable Notes, IPRs, IPSs, or TIRs, which is based on an underlying security or index. Those products are described in CBOE Rules 31.5I, 31.5O, 31.5L, 31.5M, and 31.5N, respectively.

<sup>6</sup> The CBOE Stock Exchange is the stock trading facility of CBOE.

The Exchange notes that, in the event the NAV (or disclosed portfolio, as applicable) for one of the securities referred to above is no longer calculated or disseminated, the Exchange would halt trading in such security and would resume trading at such time as the NAV (or disclosed portfolio, as applicable) is available.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose 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

The Exchange has designated the proposed rule change as one that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) 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 if consistent with the protection of investors and the public interest. Additionally, the Exchange provided the Commission with written notice of its intention to file the proposed rule change at

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<sup>7</sup> 15 U.S.C. 78f(b)(5).

least five business days before its filing. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

The Exchange has requested that the Commission waive the 30-day operative delay, which would make the rule change operative upon filing. The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as it will clarify a circumstance under which the Exchange will halt trading in Derivative Securities Products listed on the Exchange. This proposal is similar to rule changes by other national securities exchanges, and does not raise any new or unique issues.<sup>10</sup> Therefore, the Commission designates the proposed rule change as operative immediately.<sup>11</sup>

#### 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

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> See Securities Exchange Act Release No. 58111 (July 7, 2008), 73 FR 40643 (July 15, 2008) (SR-Amex-2008-40; SR-NASDAQ-2008-046; SR-NYSE-2008-39; SR-NYSEArca-2008-50).

<sup>11</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2008-91 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2008-91. 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 inspection and copying 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 self-regulatory organization. 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-2008-91 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Florence E. Harmon  
Acting Secretary

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