

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51346; File No. SR-CBOE-2005-08]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated Relating to Listing Standards for Options on Narrow-Based Security Indexes

March 9, 2005.

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 14, 2005, the 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 CBOE. On March 3, 2005, the Exchange amended its proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules regarding listing standards for options on narrow-based security indexes. The text of the proposed rule change is available on the CBOE's Web site (<http://www.cboe.com>), at the CBOE's Office of the Secretary, 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 CBOE 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 places specified in Item III below. The CBOE has prepared summaries, set forth in

Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE is proposing to amend CBOE Rule 24.2(b), which provides for generic listing standards that allow the Exchange to list and trade options on certain narrow-based stock indexes pursuant to Rule 19b-4(e) under the Act.⁴ Rule 19b-4(e) provides that the listing and trading of a new derivatives securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4,⁵ if the Commission has approved, pursuant to Section 19(b) of the Act,⁶ the self-regulatory organization's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the self-regulatory organization has a surveillance program for the product class.⁷ Thus, CBOE Rule 24.2(b) allows the Exchange to list options on certain narrow-based securities indexes pursuant to Rule 19b-4(e) under the Act⁸ without having to submit a formal rule change under Section 19(b) of the Act⁹ as long as the stock indexes satisfy the requisite criteria provided for under CBOE Rule 24.2(b).¹⁰ One of these criteria, provided for under CBOE Rule 24.2(b)(2), requires that the subject index be capitalization-weighted, price-weighted, or equal-dollar weighted and consist of ten or more component securities.

The Exchange hereby proposes to amend CBOE Rule 24.2(b)(2) to include the modified capitalization-weighted methodology as an acceptable generic listing standard for options on a narrow-based index.¹¹ In addition to being a

widely established method of weighting securities indexes,¹² the modified capitalization-weighted methodology is already an approved criterion under the Exchange's generic listing standards for micro narrow-based securities indexes, as provided under CBOE Rule 24.2(d)(2).¹³ As such, the CBOE believes it is appropriate to adopt the modified capitalization-weighted methodology as a standard for listing options on narrow-based indexes that satisfy the Exchange's generic listing criteria for options on narrow-based securities indexes under CBOE Rule 24.2(b).

2. Statutory Basis

The CBOE believes the proposed rule change, as amended, is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Section 6(b)(5),¹⁵ in particular, in that it should promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The CBOE believes that the adoption of the proposed rule change, as amended, also would enable the CBOE to act expeditiously in listing options on new narrow-based security indexes using standards that are currently applicable to options on micro narrow-based indexes listed on the Exchange.

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

The Exchange believes that this proposed rule change, as amended, does not impose any burden on competition that is 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and

performance distortion by preserving the capitalization ranking of companies; and (4) reduce market impact on the smallest underlying components from necessary weight rebalancing.

¹² For example, indexes such as the Nasdaq-100 Index, KBW Bank Index, KBW Capital Markets Index, and the Goldman Sachs Technology Indexes are calculated using the modified capitalization-weighted methodology.

¹³ See Securities Exchange Act Release No. 49932 (June 28, 2004), 69 FR 40994 (July 7, 2004) (Order approving the CBOE's micro narrow-based securities index generic listing standards).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Amendment No. 1, dated March 3, 2005 ("Amendment No. 1"). In Amendment No. 1, the Exchange supplemented its description of the modified market capitalization methodology. Amendment No. 1 replaced the CBOE's original filing in its entirety.

⁴ 17 CFR 240.19b-4(e).

⁵ 17 CFR 240.19b-4(c)(1).

⁶ 15 U.S.C. 78s(b).

⁷ See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

⁸ 17 CFR 240.19b-4(e).

⁹ 15 U.S.C. 78s(b).

¹⁰ See Securities Exchange Act Release No. 41374 (May 5, 1999), 64 FR 25936 (May 13, 1999) (Order approving CBOE Rule 24.2(b)—Generic Narrow-Based Index Listing Criteria).

¹¹ A modified capitalization weighted index is similar to a capitalization weighted index, where the components are weighted according to the total market value compared to the market value of the outstanding shares, except that an adjustment to the weighting of one or more of the components occurs. The general purposes for using this methodology are to: (1) Retain the economic attributes of capitalization weighting; (2) promote portfolio weight diversification; (3) reduce index

arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2005-08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-08. 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. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-2005-08 and should be submitted by April 6, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,¹⁶ and, in particular,

the requirements of Section 6(b)(5) thereunder.¹⁷ The proposed rule change, as amended, would facilitate the listing and trading of options on certain types of narrow-based securities indexes on the Exchange for the benefit of its members and their customers, specifically those that are calculated using the modified capitalization-weighted methodology and otherwise meet all applicable generic listing standards under CBOE Rule 24.2(b). The Commission also notes that the modified capitalization-weighted methodology is an established method for calculating securities indexes, including the Nasdaq 100 index, and has been approved, pursuant to Rule 19b-4(e) under the Act,¹⁸ as a generic listing standard for index-based securities.¹⁹ Accordingly, the Commission believes that approving this proposed rule change, as amended, would promote a fair, orderly, and competitive options market.

The Exchange has requested that this proposed rule change, as amended, be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.²⁰ The Commission finds good cause for approving this proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that accelerating the effectiveness of the proposed rule change, as amended, would facilitate the availability of additional investment choices to investors. In addition, the Commission notes that it has previously approved the modified market capitalization methodology in generic listing standards for other derivative products. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,²¹ to approve the proposal, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change, as amended, (SR-CBOE-2005-10) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51351; File No. SR-CBOE-2005-14]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Transaction Fees for Options on the Mini-Nasdaq-100 Index and Options on the Nasdaq-100 Index

March 9, 2005.

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 31, 2005, the 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 CBOE. On March 2, 2005, CBOE amended the proposed rule change ("Amendment No. 1").³ The proposed rule change, as amended, has been filed by CBOE as a non-controversial filing pursuant to Section 19(b)(3)(A) of the Act,⁴ and Rule 19b-4(f)(6) thereunder,⁵ which renders the proposal effective upon filing with the Commission.⁶ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its Fee Schedule relating to transaction fees for options on the Mini-Nasdaq-100 Index ("MNX") and the Nasdaq-100 Index ("NDX"). The text of the proposed rule

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange changed the basis under Rule 19b-4 for filing the proposed rule change from paragraph (f)(2) to paragraph (f)(6) of Rule 19b-4 and made certain clarifying changes.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ The Exchange requested the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ 17 CFR 240.19b-4(e).

¹⁹ See Securities Exchange Act Release Nos. 51256 (February 25, 2005), 70 FR 10447 (March 3, 2005); 49932 (June 28, 2004), 69 FR 40994 (July 7, 2004) (Order approving the CBOE's micro narrow-based securities index generic listing standards).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

²² 15 U.S.C. 78s(b)(2).

¹⁶ In approving this rule, the Commission notes that it has considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).