

execution obligations and FINRA rules.¹⁷ Applicable exchange rules also require that customers receive appropriate disclosure before trading Mini DAX options.¹⁸ Furthermore, brokers opening accounts and recommending options transactions must comply with relevant customer suitability standards.¹⁹

The trading of options on the Mini DAX will be subject to the same rules that currently govern the trading of Exchange index options, as will the trading of long-term Mini DAX options. The Commission believes that the listing rules proposed by ISE are consistent with the Act. One point strike price intervals for Mini DAX options should provide investors with flexibility in the trading of Mini DAX options and further the public interest by allowing investors to establish positions that are better tailored to meet their investment objectives. The listing of options on a reduced value should provide an opportunity for investors to hedge, or speculate on, the market risk associated with the stocks comprising the DAX Index, and with the reduction in the value of the DAX Index, investors will be able to use this trading vehicle while extending a smaller outlay of capital. This may attract additional investors, and, in turn, create a more active and liquid trading environment.

The Commission notes that index levels for options on the Mini DAX will be calculated by DBAG, or its agent, and updated on a real time basis, and will be disseminated by ISE at 15-second intervals to market information vendors via OPRA.

The Commission believes that the Exchange's proposed position and exercise limits for Mini DAX Options are appropriate and consistent with the Act. The Commission also notes that ISE has represented that it has an adequate surveillance program to monitor trading of Mini DAX Options and intends to apply its existing surveillance program to support the trading for these options.

Finally, the Commission believes that the proposal strikes a reasonable balance between the Exchange's desire to offer a wider array of products with the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. In approving the proposed rule change, the Commission has relied on the Exchange's representation that it has the necessary systems capacity to support

the new options series that will be listed under this proposal. This approval order is conditioned on ISE's adherence to this representation. The Commission expects the Exchange to continue to monitor for options with little or no open interest and trading activity and to act promptly to delist such options. In addition, the Commission expects that ISE will 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,²⁰ that the proposed rule change (SR-ISE-2010-81) be, and hereby is, approved.

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

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010-24882 Filed 10-4-10; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63005; File No. SR-NSCC-2010-10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify Its Rules & Procedures Regarding Its Alternative Investment Product Service

September 29, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 20, 2010, the National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4) thereunder³ so that the proposal was effective upon filing with the Commission. 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 proposed rule change amends NSCC's rules to clarify that an Alternative Investment Product ("AIP") Service prospective member is not required to designate a settling bank in order to become an AIP member.

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

In its filing with the Commission, NSCC 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 IV below. NSCC 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. AIP Service

In 2007, NSCC filed a rule change with the Commission that established the AIP Service, which is a processing platform for alternative investment products such as hedge funds, fund of hedge funds, commodities pools, managed futures, and real estate investment trusts.⁴ The AIP Service provides for settlement of related payments ("AIP Payments") such as subscriptions and redemptions, activity, distributions, and commissions for AIPs. The AIP Service also supports communication of information and settlement of AIP Payments between the AIP Manufacturer⁵ and the AIP Distributor⁶ to facilitate processing of subscriptions and purchases, tenders and redemptions, dividends and distributions, commissions and fees, positions reporting, product information, account maintenance, automated transmission of imaged

⁴ Securities and Exchange Act Release No. 57813 (May 12, 2008), 73 FR 28539 (May 16, 2008).

⁵ NSCC Rule 53 defines an AIP Manufacturer as an AIP Member acting on behalf of or under authority of the sponsor, general partner, or any other party responsible for the creation or manufacturing of an Eligible AIP Product.

⁶ NSCC Rule 53 defines an AIP Distributor as an AIP Member acting on behalf of or under authority of a customer or other investor in an Eligible AIP Product, or otherwise as the contra-side to an AIP Manufacturer in a transaction (including information processing) with an AIP Manufacturer.

¹⁷ See NASD Rule 2320.

¹⁸ See ISE Rule 616.

¹⁹ See ISE Rule 610. See also ISE Rulebook Chapter Six for rules designed to protect public customer trading that shall apply to the trading of options on the Mini DAX.

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(iii).

³ 17 CFR 240.19b-4(f)(4).

documents, and such other services as NSCC may determine from time to time. AIP Members may transmit data in connection with transactions for which the payments are made outside of NSCC or are made through NSCC at their option.

2. AIP Settlement

Prior to this rule change, NSCC Rule 53, Section 7, paragraph (h), provided that unless “otherwise permitted by [NSCC], each AIP Member shall appoint an AIP Settling Bank for the purpose of settling with [NSCC] on behalf of the AIP Member pursuant to an AIP Settling Bank Agreement.” This settlement bank provision was implemented in the initial AIP Service rule filing to accommodate the stringent settlement rules implemented for the AIP Service. AIP settlement is segregated from all other NSCC settlement obligations and is settled on a gross debit/gross credit basis. In other words, each AIP Service participant must fully fund its debits before receiving its credit. In the event of a failure, NSCC does not fund the credits but rather begins the AIP reversal process. The AIP Service’s prefunded settlement mitigates NSCC’s risk. This settling bank provision was also included in the original AIP Service filing because participants were initially required to settle all NSCC invoices with their settlement obligation.

3. Clarification of Settling Bank Provision in Rule 53

Since the implementation of the AIP Service, a significant number of prospective participants view its reporting functionality as a key first step in use of the AIP Service. These AIP prospects have expressed their interest in becoming AIP members in order to participate in the transmission of AIP Data but not the settling functions of the AIP Service.⁷

In response to this feedback, NSCC has developed a functionality that can designate AIP Service members as “non-settling” members that use the AIP Service for messaging only. Position and Activity-Distribution and Commission are typically “non-settling,” and strictly reporting functions. Requiring these prospective participants to designate a settling bank simply for payment of NSCC bills is a hindrance to product adoption and is cost prohibitive.

⁷ NSCC Rule 53 provides that “AIP Data transmitted through the AIP Service may include data relating to subscriptions and purchases; redemptions, withdrawals and tender offers; commissions and other fees; distributions; exchange transactions; transfers; position reporting; product information; account maintenance, valuation, and activity and such other data as may be established by the Corporation from time to time.”

Additionally, the current list of NSCC settling banks accepting new clients is limited, and those settling banks willing to accept new settlement business have requested large monthly fees from the AIP prospects.

The AIP Service has now been appropriately configured to allow for prospective members to apply for membership without designating a settling bank. If a participant is established by NSCC’s Account Administration department on the Entity Master File (“EMF”) without a settling bank’s ABA number, EMF notifies the AIP Service that the participant is non-settling. The AIP Service retains a table of the non-settling participants and validates all settlement files created by the application against the table. If a participant without a settling bank erroneously indicates settlement, no settlement file will be created or sent to settlement. The transaction will continue through normal AIP processing as non-settling.

AIP Service participants that do not intend to use its settling function will no longer be required to settle their NSCC invoices in their settlement obligations. Those participants that are designated “non-settling” members will be permitted to use alternative means of payment as designated from time to time by NSCC. Current methods of payment include DTCC ePayment for NSCC Invoices (which allows participants without a settling bank to authorize payment of NSCC Invoices through debit to an ACH-accessible commercial account at a U.S. bank) or credit card.

4. Implementation Time Frame

NSCC will advise its members of the changes to the Rule 53 clarification that settling bank designation is not a requirement for AIP Service membership through the issuance of an NSCC Important Notice.

NSCC states that Section 17A(b)(3)(F) of the Act⁸ requires, among other things, that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions. NSCC believes that this proposed rule change, which seeks to clarify NSCC Rule 53, will remove an impediment to the AIP Service membership process.

⁸ 15 U.S.C. 78–1(b)(3)(F).

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

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not solicited or received written comments relating to the proposed rule change. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁹ and Rule 19b–4(f)(4)¹⁰ thereunder because it effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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:

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 No. SR–NSCC–2010–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

⁹ Above note 2.

¹⁰ Above note 3.

Station Place, 100 F Street, NE.,
Washington, DC 20549-1090.

All submissions should refer to File No. SR-NSCC-2010-10. 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 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at NSCC's principal office and on NSCC's Web site at http://www.dtcc.com/legal/rule_filings/nscc/2010.php. 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 No. SR-NSCC-2010-10 and should be submitted on or before October 26, 2010.

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

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010-24884 Filed 10-4-10; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63001; File No. SR-CBOE-2010-85]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Class Quoting Limit in One Option Classes

September 28, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 16, 2010, 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, which Items have been prepared by the CBOE. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act,³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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 increase the class quoting limit in one option class. The text of the proposed rule change is available on CBOE's Web site (<http://www.cboe.org/legal>), 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 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 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

CBOE Rule 8.3A, Maximum Number of Market Participants Quoting Electronically per Product, establishes class quoting limits ("CQLs") for each class traded on the Hybrid Trading System.⁵ A CQL is the maximum number of quoters that may quote electronically in a given product and Rule 8.3A, Interpretation .01(a) provides that the current levels are generally established at 50.

In addition, Rule 8.3A, Interpretation .01(b) provides a procedure by which the President of the Exchange may increase the CQL for an existing or new product. In this regard, the President of the Exchange may increase the CQL in a particular product when he deems it appropriate. The effect of an increase in the CQL is procompetitive in that it increases the number of market participants that may quote electronically in a product. The purpose of this filing is to increase the CQL in options on the CBOE Volatility Index (VIX) from its current limit of 50 to 60, which CBOE's President has determined would be appropriate.⁶ Increasing the CQL also may enhance the liquidity offered in the option class. Lastly, CBOE represents that it has the systems capacity to support this increase in the CQL.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. As indicated above, the Exchange believes that increasing the CQL in this

⁵ See Rule 8.3A.01.

⁶ CBOE's President has determined that this increase would be appropriate, in part, due to the relocation of several option classes, including VIX, to a larger trading station on the trading floor which may enhance the liquidity offered in the option class. E-mail dated September 28, 2010, from Patrick Sexton, Associate General Counsel, CBOE.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

¹¹ 17 CFR 200.30-3(a)(12).