

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.⁸ However, Rule 19b-4(f)(6)⁹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission has considered the Exchange's request to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program.¹⁰ For this reason, the Commission designates the proposed rule change to be 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Act, an exchange is required to give the Commission 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 Commission notes that the Exchange has satisfied this requirement.

⁸ 17 CFR 240.19b-4(f)(6)(iii).

⁹ *Id.*

¹⁰ For the purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Number SR-FINRA-2011-015 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.

All submissions should refer to File Number SR-FINRA-2011-015. 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 website (<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 website 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 the principal offices 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-FINRA-2011-015, and should be submitted on or before May 2, 2011.

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

Cathy H. Ahn,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64189; File No. SR-CBOE-2011-008]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change To Permit the Listing of Series With \$0.50 and \$1 Strike Price Increments on Certain Options Used To Calculate Volatility Indexes

April 5, 2011.

I. Introduction

On February 4, 2011, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to expand the \$2.50 Strike Price Program. The proposed rule change was published for comment in the **Federal Register** on February 24, 2011.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

CBOE has proposed to amend Rules 5.5 and 24.9 to permit the listing of strike prices in \$0.50 intervals where the strike price is less than \$75, and strike prices in \$1.00 intervals where the strike price is between \$75 and \$150 for option classes used to calculate volatility indexes. The Exchange also proposed to amend Interpretation and Policy .08 to Rule 5.5 to permit \$0.50 strike price intervals where the strike price is less than \$75 for options on exchange-traded funds ("ETFs") that are used to calculate a volatility index.

In its proposal, CBOE seeks to apply its VIX methodology⁴ to options on certain ETFs and individual equity

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 63927 (February 17, 2011), 76 FR 10412 ("Notice").

⁴ The VIX methodology is derived from a body of research showing that it is possible to create pure exposure to volatility by assembling a special portfolio of options. While the price of a single option depends on both the underlying price and volatility, this special portfolio is constructed, in the aggregate, to eliminate the stock price dependence. In theory, this option portfolio would be comprised of an infinite number of options with continuous strike prices. In practice, however, the options that are used to calculate VIX—as well as other volatility indexes—are finite in number and are subject to a minimum interval between strike prices. The narrower this minimum interval, the more accurate the expression of volatility should be.

¹¹ 17 CFR 200.30-3(a)(12).

securities, and believes that it is appropriate to designate strike price intervals and ranges for series in such options that are comparable to those strike price intervals and ranges in effect for the SPX option series. The Exchange hopes that this will permit calculation of volatility index values that are recognized to be as accurate and reliable as the VIX values. The Exchange stated that allowing smaller strike price intervals for options overlying single stocks, ETFs, and indexes with prices of \$150 or less will allow the Exchange to calculate volatility indexes that are better estimates of the expected volatility of option classes with underlying prices that are low relative to the level of the S&P 500.

The Exchange also stated its belief that the expansion of strike prices resulting from the proposal is limited because the proposal will apply only to options that are used to calculate a volatility index. CBOE further stated that it has analyzed its capacity and represented that it believes that the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing series with strike prices in \$0.50 intervals where the strike price is less than \$75, and series with strike prices in \$1.00 intervals where the strike price is between \$75 and \$150 for option classes used to calculate volatility indexes that would result from the Exchange's proposal.

III. Discussion

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.⁵ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁶ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 proposal appears to strike a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the

need to avoid unnecessary proliferation of options series and the corresponding increase in quotes and market fragmentation. The Commission expects the Exchange to 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, OPRAs, and vendors' automated systems. The Commission notes that CBOE has represented that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the newly permitted listings.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2011-008) be, and it hereby is, approved.

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

Cathy H. Ahn,
Deputy Secretary.

[FR Doc. 2011-8498 Filed 4-8-11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64187; File No. SR-EDGA-2011-08]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Adopt Rule 3.22 (Proxy Voting), in Accordance With the Provisions of Section 957 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

April 5, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 24, 2011, EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission (the "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, and is

approving the proposed rule change on an accelerated basis.

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

The Exchange proposes to adopt Rule 3.22 (Proxy Voting), in accordance with the provisions of Section 957 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange's Web site at <http://www.directedge.com>, at the Exchange's principal office, and at the Public Reference Room of 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 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 III below. The self-regulatory organization 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

Purpose

The Exchange is proposing to adopt EDGA Rule 3.22 (Proxy Voting), in accordance with the provisions of Section 957 of the Dodd-Frank Act, to prohibit Members from voting uninstructed shares if the matter voted on relates to (i) the election of a member of the board of directors of an issuer (other than an uncontested election of a director of an investment company registered under the Investment Company Act of 1940 (the "Investment Company Act")), (ii) executive compensation, or (iii) any other significant matter, as determined by the Securities and Exchange Commission (the "Commission"), by rule.

Section 957 of the Dodd-Frank Act amends Section 6(b)³ of the Securities Exchange Act of 1934 (the "Exchange Act") [sic] to require the rules of each national securities exchange to prohibit any member organization that is not the beneficial owner of a security registered

⁵ 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).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78f(b).