requirements, such as in CBOE Rules 9.8 and 9.9. The Commission believes that these safeguards are reasonably designed to help mitigate potential risks for retail and other investors of investing in FLEX Options.

CBOE also believes that permanently removing the minimum value size requirements for FLEX Options will give investors a more viable, exchange-traded alternative to customized options in the OTC market, which are not subject to minimum value size requirements. Furthermore, CBOE has represented that broker-dealers have indicated to CBOE that the minimum value size requirements have prevented them from bringing transactions on the Exchange that are already taking place in the OTC market. Therefore, it appears possible that permanent approval of the Pilot Program could further incent trading interest in customized options to move from the OTC market to CBOE. To the extent investors choose to trade FLEX Options on CBOE in lieu of the OTC market as a result of the permanent removal of the minimum value size requirements, such action should benefit investors. As the Commission has previously noted, there are certain benefits to trading on an exchange, such as enhanced efficiency in initiating and closing out positions, increased market transparency, and heightened contra-party creditworthiness due to the role of the Options Clearing Corporation as issuer and guarantor of FLEX Options.

IV. Conclusion

In summary, the Commission believes, for the reasons noted above, that the proposed rule change to permanently approve the Pilot Program is consistent with the Act and Section 6(b)(5) thereunder in particular, and should be approved. The Commission expects CBOE to continue to monitor the usage of FLEX Options and review whether changes need to be made to its rules or the ODD to address any changes in retail FLEX Option participation or any other issues that may occur as a result of the elimination of the minimum value sizes on a permanent basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CBOE–2012–040) be, and it hereby is, approved.

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

Kevin M. O’Neill,
Deputy Secretary.