11. No Trustee or officer of the Trust or of a Subadvised Fund or director or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser except for (i) ownership of interests in the Adviser or any entity that controls, is controlled by or is under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

12. Each Subadvised Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the Application, the requested order will expire on the effective date of that rule.

14. For Subadvised Funds that pay fees to a Subadviser directly from fund assets, any changes to a Subadvisory Agreement that would result in an increase in the total management and advisory fees payable by a Subadvised Fund will be required to be approved by the shareholders of the Subadvised Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24458 Filed 10–3–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67948; File Nos. SR–NYSEArca–2012–64; SR–ISE–2012–58]

Self-Regulatory Organizations; NYSE Arca, Inc.; International Securities Exchange, LLC; Notice of Filing of Amendments No. 1 and Order Granting Accelerated Approval of Proposed Rule Changes as Modified by Amendments No. 1 To List and Trade Option Contracts Overlying 10 Shares of Certain Securities

September 28, 2012.

I. Introduction

On June 15, 2012, NYSE Arca, Inc. (''NYSE Arca''), and on June 20, 2012, International Securities Exchange, LLC (''ISE,'' and together with NYSE Arca, ''Exchanges''), 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] proposed rule changes to list and trade option contracts overlying 10 shares of certain securities (''mini options''). The proposed rule changes were published for comment in the **Federal Register** on July 3, 2012.[3] The Commission initially received two comment letters on the proposals.[4] On August 9, 2012, the Commission extended the time period for Commission action on both proposals to October 1, 2012.[5] On September 20, 2012, NYSE Arca filed Amendment No. 1 to its proposed rule change. Also, on September 20, 2012, ISE submitted a response letter [6] and filed Amendment No. 1 to its proposed rule change.[7] On September 24, 2012, NYSE Arca submitted a response letter.[8] The Commission subsequently received one additional comment letter [9] and one additional response letter from each of the Exchanges.[10] The Commission is publishing this notice to solicit comments on the Exchanges' proposals, as modified by Amendments No. 1, from interested persons and is approving the Exchanges' proposals, as modified by Amendments No. 1, on an accelerated basis.

II. Description of the Proposed Rule Changes

The Exchanges propose to list and trade mini options [11] on certain underlying securities—SPDR S&P 500 ETF (''SPY''), Apple Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG''), and Amazon.com, Inc. (''AMZN'').[12] According to the Exchanges, these underlying securities were selected because they are currently trading at prices greater than $100 and are actively traded.[13] The Exchanges also note that the standard option contracts overlying these five securities are among the most actively traded, with average daily volume over the previous three calendar months of at least 45,000 contracts, excluding LEAPS and FLEX series.[14]

The Exchanges propose to designate mini options contracts with different trading symbols than their corresponding standard contracts.[15] In addition, the Exchanges propose that strike prices for mini options would be set at the same level as full-sized options.[16] Bids and offers for mini options would be expressed in terms of dollars per 1/10th part of the total value of the options contract.[17] As expressed in the Exchanges' proposals, the table below demonstrates the proposed differences between a mini options contract and a standard contract with a strike price of $125 per share and a bid or offer of $3.20 per share:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 67283 (June 27, 2012), 77 FR 39535 (''NYSE Arca Notice'') and 67284 (June 27, 2012), 77 FR 39545 (''ISE Notice'').

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Christopher Nagy, President, KOR Trading LLC, dated July 10, 2012 (''KOR Trading Letter'') and Edward T. Tilly, President and Chief Operating Officer, Chicago Board Options Exchange, Incorporated, dated July 24, 2012 (''CBOE Letter'').

[5] *See* Securities Exchange Act Release Nos. 67631, 77 FR 49044 (August 15, 2012) and 67632, 77 FR 49044 (August 15, 2012).

[6] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary and General Counsel, ISE, dated September 20, 2012 (''ISE Response Letter I'').

[7] In its Amendment No. 1, each Exchange represents that its current schedule of fees will not apply to the trading of mini options contracts. Further, each Exchange represents that it will not commence trading in mini options until it files with the Commission, as a proposed rule change, specific fees for mini options.

[8] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, EVP & Corporate Secretary, General Counsel, NYSE Markets, NYSE Euronext, dated September 24, 2012 (''NYSE Arca Response Letter I'').

[9] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Anthony D. McCormick, Chief Executive Officer, BOX Options Exchange LLC (''BOX''), dated September 24, 2012 (''BOX Letter'').

[10] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, EVP & Corporate Secretary, General Counsel, NYSE Markets, NYSE Euronext, dated September 26, 2012 (''NYSE Arca Response Letter II'') and Katherine Simmons, Deputy General Counsel, ISE, dated September 26, 2012 (''ISE Response Letter II'').

[11] Mini options contracts would represent a deliverable of 10 shares of an underlying security, whereas standard contracts represent a deliverable of 100 shares.

[12] The Exchanges note that any expansion of the mini options program would require that a subsequent proposed rule change be submitted to the Commission. *See* NYSE Arca Notice, *supra* note 3, at n.3 and ISE Notice, *supra* note 3, at n.3.

[13] *See* NYSE Arca Notice, *supra* note 3, at n.3 and ISE Notice, *supra* note 3, at n.3.

[14] *See* NYSE Arca Notice, *supra* note 3, at n.3 and ISE Notice, *supra* note 3, at n.3.

[15] *See* NYSE Arca Notice, *supra* note 3, at 39536 and ISE Notice, *supra* note 3, at 39546. According to the Exchanges, the Options Clearing Corporation (''OCC'') symbology is structured for contracts that have a deliverable of other than 100 shares to be designated with a numeric added to the standard trading symbol. *See* NYSE Arca Notice, *supra* note 3, at n.6 and ISE Notice, *supra* note 3, at 39546. *See also* NYSE Arca Response Letter II, *supra* note 10, at 1.

[16] *See* NYSE Arca Rule 6.4, Commentary .14(b) and ISE Rule 504, Supplementary Material .12(b).

[17] *See* NYSE Arca Rule 6.71(c) and ISE Rule 709(c).

	Standard	Mini
Shares Deliverable Upon Exercise	100 shares	10 shares.
Strike Price	125	125.
Bid/Offer	3.20	3.20.
Premium Multiplier	$100	$10.
Total Value of Deliverable	$12,500	$1,250.
Total Value of Contract	$320	$32.

Further, the Exchanges propose not to permit the listing of additional mini options series if the underlying security is trading at $90 or less and to require that the underlying security trade above $90 for five consecutive days before the listing of mini options in an additional expiration month.[18]

In addition, in their proposals, each of the Exchanges states that it has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of mini options contracts.[19]

III. Discussion and Commission Findings

The Commission finds that the proposed rule changes filed by NYSE Arca and ISE are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[20] Specifically, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) of the Act,[21] which requires, among other things, that the rules of a national securities exchange be 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.

The Commission believes that the listing and trading of mini options on SPY, AAPL, GLD, GOOG, and AMZN could benefit investors by providing them with additional investment alternatives. The Commission believes, as noted in the proposals and the KOR Trading Letter, the listing and trading of mini options would make options overlying high-priced securities more readily available to investors, thereby providing investors with a tool to manage risk in high-priced securities.[22] In particular, the Exchanges state that mini options would be more affordable for investors.[23] In addition, in its comment letter, KOR Trading states that certain stocks are priced too high for the average investor to purchase a round lot and investors are increasingly using odd lots.[24] It further states that mini options would allow investors who purchase odd lots to hedge their positions and that mini options would benefit investors significantly, particularly small investors.[25] BOX also states that options contracts on certain high-priced underlying securities are priced out of reach for the majority of retail investors.[26] As such, BOX expresses support for the creation of mini options that are one-tenth the size of the current standard-sized options.[27] In addition, CBOE expresses support for the objective of providing investors with access to exchange-traded options overlying high-priced securities that are smaller in size and, therefore, more readily available as an investing tool than standard-sized options.[28]

In its comment letter, CBOE raises a price protection issue with respect to the proposals. Specifically, CBOE states that, in connection with its prior proposal to list and trade both full-value and reduced-value options on the CBOE S&P 500 BuyWrite Index (''BXM''), Commission staff had expressed the concern that having two sizes of options on the same underlying interest created a potential for price protection issues because of the possibility that trades in the reduced-sized options might occur at a price inferior to the price available in the full-sized options, or vice versa.[29] In addition to CBOE, BOX suggests in its comment letter that the Exchanges did not discuss in sufficient detail the issue of either the mini options or the standard options on the same underlying security potentially ''trading through'' the market of the other.[30]

The Commission notes that price protection would not apply across standard and mini options contracts on an intramarket basis, as these are separate products. The Commission recognizes that trading different options products that overlie the same security or index could disperse trading interest across the products to some extent. In illiquid or nascent markets, increased dispersion across products may cause particular concern, as the markets for the separate products may lack the critical mass of buyers and sellers to allow such a market to become established or, once established, to thrive.

In the case of markets for options on SPY, AAPL, GLD, GOOG, and AMZN, there generally exists a critical mass of willing buyers and sellers both for the options and for the underlying securities that mitigate such concerns. The Exchanges propose to limit the listing and trading of mini options to those five underlying securities because they are high-priced and highly liquid securities, and the standard option contracts overlying these securities are among the most actively-traded options.[31] Specifically, the Exchanges note in their proposals that SPY, AAPL, GLD, GOOG, and AMZN were selected

[18] *See* NYSE Arca Rule 6.4, Commentary .14(c) and ISE Rule 504, Supplementary Material .12(c). In addition, the Exchanges propose that, for purposes of determining compliance with position limits, ten mini options contracts would equal one standard contract. *See* NYSE Arca Rule 6.8, Commentary .08 and ISE Rule 412, Supplementary Material .03.

[19] *See* NYSE Arca Notice, *supra* note 3, at 39536 and ISE Notice, *supra* note 3, at 39546. Each of the Exchanges also states that it has discussed the proposed listing and trading of mini options with the OCC, and the OCC has represented that it is able to accommodate mini options. *See* NYSE Arca Notice, *supra* note 3, at 39536 and ISE Notice, *supra* note 3, at 39546.

[20] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* NYSE Arca Notice, *supra* note 3, at 39536; ISE Notice, *supra* note 3, at 39546; and KOR Trading Letter, *supra* note 4, at 1.

[23] *See* NYSE Arca Notice, *supra* note 3, at 39536 and ISE Notice, *supra* note 3, at 39546.

[24] *See* KOR Trading Letter, *supra* note 4, at 1.

[25] *See id*. *See also* NYSE Arca Notice, *supra* note 3, at 39536 and ISE Notice, *supra* note 3, at 39546.

[26] *See* BOX Letter, *supra* note 9, at 1.

[27] *See id*.

[28] *See* CBOE Letter, *supra* note 4, at 1.

[29] *See id*., at 2. CBOE also states its belief that the Commission staff had similar concerns with respect to a proposal by the Philadelphia Stock Exchange to trade options on exchange-traded funds (''ETFs'') and trust issued receipts with a unit of trading of 1,000 shares and NYSE Amex's proposal to trade options on certain ETFs with a unit of trading of 1,000 shares alongside standard-sized options on the same underlying ETFs. *See id.,* at 2–3.

[30] *See* BOX Letter, *supra* note 9, at 1. BOX states that all reasonable measures should be required to ensure that users of either contract size receive the best price possible based on a measure of the price per underlying share. *See id.,* at 2.

[31] *See* NYSE Arca Notice, *supra* note 3, at 39535 and ISE Notice, *supra* note 3, at 39545. *See also* NYSE Arca Response Letter II, *supra* note 10, at 2.

because these securities are priced greater than $100 and are actively traded securities, and that the standard option contract exhibits average daily volume over the previous three calendar months of at least 45,000 contracts, excluding LEAPS and FLEX series.[32]

Further, the Exchanges in their response letters distinguish the current mini options proposals from the CBOE proposal to trade BXM options.[33] The Exchanges state that while the BXM options proposal would have listed two new options products on the same index prior to the development of an active liquid market, thus raising potential concerns regarding creating a bifurcated market without adequate liquidity in either market, the current proposals restrict the eligibility of mini options to options that overlie a limited group of highly liquid and high-priced ETFs and equities.[34]

In its comment letter, BOX questions whether arbitrage would ensure that markets for the mini options and standard options would remain within a minimal spread away from the price of the underlying equity share.[35] BOX states that ensuring that the market prices stay in line is not possible until the issue of cross-margin is addressed.[36] Further, BOX states that arbitrage will only occur where the spread between a transaction in the mini option and a transaction in the standard option is such that a profit can be achieved.[37] BOX states that, absent any determination of the trading fees for mini options as compared to standard options, one cannot make any conclusions about potential arbitrage between the two markets.[38] Also, BOX suggests that one cannot presume that such arbitrage will be sufficient to maintain efficient pricing between the two markets.[39] In their second response letters, the Exchanges note that the OCC would allow mini options and standard options on the same underlying security to be cross-margined.[40] In addition, each of the Exchanges states that its current fee schedule will not apply to transactions in mini options, and that it will not start trading mini options until it has filed a proposed rule change with the Commission on specific fees for mini options.[41] Accordingly, the Exchanges believe that the availability of mini options contracts is likely to result in more efficient pricing through arbitrage with standard contracts.[42]

The Commission has carefully considered the price protection issue raised with respect to the current proposals. As discussed above, the current proposals would apply only to options on SPY, AAPL, GLD, GOOG, and AMZN, which, along with the underlying securities, are highly liquid and have well-established trading histories. The Commission believes that the high trading volume and liquidity in the markets for the five underlying securities and the standard-sized options overlying them would mitigate the price protection concern that commenters noted.[43] To expand the trading of mini options beyond options on these five underlying securities, the Exchanges would be required to file new proposed rule changes with the Commission pursuant to Section 19(b) of the Act and the Commission would, at that time, assess any market impact of such an expansion.[44] In addition, the Commission notes that NYSE Arca and ISE each represented in its Amendment No. 1 that its current fee schedule will not apply to transactions in mini options, and that it will not start trading mini options until it has filed a proposed rule change with the Commission on specific fees for mini options.[45] However, the Commission expects the Exchanges to monitor the trading of the products to evaluate whether any issues develop.

CBOE also states in its comment letter that the Exchanges have adopted rules pursuant to which they may list standard-sized options with non-standard expiration dates (*e.g.,* weekly series, quarterly series, and LEAPS).[46] CBOE states that because these types of programs have been adopted by other exchanges as well, it is important to know whether mini options with non-traditional expiration dates would be permitted under the proposals.[47] CBOE also states that, if for example, the proposals would permit weekly mini options, the Commission should consider the impact that the potential doubling of the number of weekly exchange-traded options on the underlying securities might have on the options trading industry.[48] In response, the Exchanges clarify that mini options with non-standard expiration dates would be permitted under their proposals and in accordance with their existing rules.[49] Specifically, as proposed, the Exchanges may list mini options on SPY, AAPL, GLD, GOOG, and AMZN for all expirations applicable to 100-share options in each class.[50] The Exchanges also represent that they and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of mini options.[51] In light of the Exchanges' representations, the

[32] *See* NYSE Arca Notice, *supra* note 3, at n.3 and ISE Notice, *supra* note 3, at n.3. *See also* NYSE Arca Response Letter II, *supra* note 10, at 2. Further, as proposed by both Exchanges, no additional mini options series may be added if the underlying security is trading at $90 or less, and the underlying security must trade above $90 for five consecutive days prior to listing mini options in an additional expiration month. *See* NYSE Arca Rule 6.4, Commentary .14(c) and ISE Rule 504, Supplementary Material .12(c).

[33] *See* NYSE Arca Response Letter I, *supra* note 8, at 1 and ISE Response Letter I, *supra* note 6, at 1.

[34] *See* NYSE Arca Response Letter I, *supra* note 8, at 1 and ISE Response Letter I, *supra* note 6, at 1.

[35] *See* BOX Letter, *supra* note 9, at 2.

[36] *See id.* BOX states that market participants should have the ability for full cross-margining at the OCC between mini options and standard options overlying the same security. *See id.,* at 1. In addition, BOX states that the proposals should make clear that market participants are responsible for delivering the same underlying security for mini options contracts as for standard contracts. *See id.* In their second response letters, the Exchanges clarify that mini options and the corresponding standard options would overlie the same underlying security. *See* NYSE Arca Response Letter II, *supra* note 10, at 1 (stating its understanding that OCC instructions upon assignment will be to deliver the same underlying security to the National Securities Clearing Corporation, regardless of whether it is a mini option contract or a standard contract) and ISE Response Letter II, *supra* note 10, at 1.

[37] *See* BOX Letter, *supra* note 9, at 2.

[38] *See id.*

[39] *See id.*

[40] *See* NYSE Arca Response Letter II, *supra* note 10, at 1–2 and ISE Response Letter II, *supra* note 10, at 1–2.

[41] *See* NYSE Arca Response Letter II, *supra* note 10, at 2 and ISE Response Letter II, *supra* note 10, at 2.

[42] *See* NYSE Arca Response Letter I, *supra* note 8, at 1; ISE Response Letter I, *supra* note 6, at 1–2; and NYSE Arca Response Letter II, *supra* note 10, at 2.

[43] The Commission has previously approved options products in standard and reduced values that overlie the same index (*e.g.,* SPX and XSP). *See* Securities Exchange Act Release No. 32893 (September 14, 1993), 58 FR 49070 (September 21, 1993) (SR–CBOE–93–12) (order approving proposed rule change relating to the listing of reduced-value options on the S&P 500 Index). *See also* NYSE Arca Response Letter I, *supra* note 8, at 2 (referencing the full and mini S&P 500 Index options, the full and mini Nasdaq 100 Index options, and the full and jumbo Dow Jones Industrial Average options).

[44] *See* NYSE Arca Notice, *supra* note 3, at n.3 and ISE Notice, *supra* note 3, at n.3.

[45] *See supra* note 7. *See also* NYSE Arca Response Letter II, *supra* note 10, at 2 and ISE Response Letter II, *supra* note 10, at 2.

[46] *See* CBOE Letter, *supra* note 4, at 3.

[47] *See id.*

[48] *See id.*

[49] *See* NYSE Arca Response Letter I, *supra* note 8, at 2 and ISE Response Letter I, *supra* note 6, at 2.

[50] *See* NYSE Arca Rules 6.3, Commentary .01 and 6.4, Commentary .14(a) and ISE Rule 504, Supplementary Material .12(a).

[51] *See* NYSE Arca Notice, *supra* note 3, at 39536 and ISE Notice, *supra* note 3, at 39546. The Exchanges also represent that they have discussed the proposed listing and trading of mini options with the OCC, and the OCC has represented that it is able to accommodate the proposals. *See* NYSE Arca Notice, *supra* note 3, at 39536 and ISE Notice, *supra* note 3, at 39546.

Commission believes that it is consistent with the Act to allow the listing of the proposed mini options for all expirations applicable to full-sized options in each class.

The Commission believes that other aspects of the proposals are also consistent with the Act. Specifically, the Commission believes that, because each mini option would represent a deliverable of 10 shares of an underlying security, as opposed to 100 shares (*i.e.,* the deliverable for a standard-sized option is ten times the deliverable of a mini option), the proposed position limit rules for mini options, which state that ten mini options contracts shall equal one standard contract, are appropriate and consistent with the Act.[52] Further, the Commission believes that the proposed use of different trading symbols for mini options is consistent with the Act because it should help investors and other market participants distinguish mini options from the corresponding standard options.[53] In addition, the Commission believes that the proposed treatment of strike prices [54] and bids and offers [55] for mini options is consistent with the Act, as these amendments should make clear how mini options would be quoted and traded.

As national securities exchanges, each of the Exchanges is required, under Section 6(b)(1) of the Act,[56] to enforce compliance by its members and persons associated with its members with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. In this regard, the Commission notes that the Exchanges' rules that apply to the trading of standard options would apply to mini options. The Commission also notes that the Exchanges' existing market maker quoting obligations would apply to mini options.[57] In addition, the Commission notes that intermarket trade-through protection would apply to mini options to the extent that they are traded on more than one market.

Accordingly, for the reasons stated above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[58] for approving the Exchanges' proposals, as modified by Amendments No. 1, prior to the 30th day after the date of publication of the notices in the **Federal Register**.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes are 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 email to *rule-comments@sec.gov.* Please include File Numbers SR–NYSEArca–2012–64 and SR–ISE–2012–58 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 Numbers *SR–NYSEArca–2012–64* and SR–ISE–2012–58. These file numbers should be included on the subject line if email 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 the filings also will be available for inspection and copying at the principal offices of the Exchanges. 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 Numbers SR–NYSEArca–2012–64 and SR–ISE–2012–58 and should be submitted on or before October 25, 2012.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[59] that the proposed rule changes (SR–NYSEArca–2012–64; SR–ISE–2012–58), as modified by Amendments No. 1, be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011–01–P

[52] *See* NYSE Arca Rule 6.8, Commentary .08 and ISE Rule 412, Supplementary Material .03. The Commission notes that, according to ISE Rule 412, Supplementary Material .03, positions in mini options are aggregated with positions in regular-sized options overlying the same security. Further, according to NYSE Arca Rule 6.8, in determining compliance with relevant position limits, NYSE Arca considers: (1) An aggregate long position in any class of options; (2) an aggregate short position in any class of options; (3) an aggregate position on the same side of the market in the same underlying stock, which position shall be ascertained by combining long call options with short put options and short call options with long put options; or (4) an aggregate uncovered short position in any class of options.

[53] *See supra* note 15 and accompanying text.

[54] *See* NYSE Arca Rule 6.4, Commentary .14(b) and ISE Rule 504, Supplementary Material .12(b).

[55] *See* NYSE Arca Rule 6.71(c) and ISE Rule 709(c). The Commission also believes that NYSE Arca's proposal to delete references to ''Exchange-Traded Fund Share'' in NYSE Arca Rule 6.71 is consistent with the Act.

[56] 15 U.S.C. 78f(b)(1).

[57] *See* NYSE Arca Rule 6.37B and ISE Rule 804.

[58] 15 U.S.C. 78s(b)(2).

[59] 15 U.S.C. 78s(b)(2).

[60] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67946; File No. SR–CBOE–2012–080]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

September 28, 2012.

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 18, 2012, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.