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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41215; File No. SR–CBOE–99–04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to New Series of Options Based on the Standard and Poor's 100 Index

March 26, 1999.

I. Introduction

On January 21, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'' or ''SEC''), 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 change the permissible range of new series of Standard and Poor's 100 Index options (''OEX'') under unusual market conditions. Notice of the proposed rule change appeared in the **Federal Register** on February 23, 1999.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend CBOE Rule 24.9, Interpretation and Policy .01(d), to increase the permissible range of additional series that may be listed for OEX options during unusual market conditions. Interpretation and Policy .01(d) currently requires that when the Exchange introduces trading in a new expiration month, or when additional series of options in an existing expiration month are opened, the Exchange shall only list series of options with exercise prices that are ''reasonably related to the current value of the underlying index.'' In the case of OEX options, ''reasonably related to the current value of the underlying index'' is defined to be within eight percent of the current index value under normal market conditions. Under unusual market conditions, ''reasonably related to the current value of the underlying index'' is defined to be within ten percent of the index value. The Exchange now proposes that, for options on OEX, exercise prices within twenty percent of the current index value, instead of within ten percent, be deemed ''reasonably related to the value of the underlying index'' under unusual market conditions.

III. Discussion

After careful review, 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.[4] In particular, the Commission believes the proposal is consistent with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.[5]

The Commission believes that the proposal should enable the CBOE to respond to changing market conditions by listing OEX options series that provide market participants with an effective means to manage risk and implement their trading strategies. The Commission further believes that the discretion to list additional series of OEX options should help to ensure the consistent availability of index options series tailored to meet the needs of investors during periods of market volatility. Additionally, the CBOE's proposal strikes an appropriate balance between accommodating the needs of market participants and avoiding the excessive proliferation of options series.

The proposal affects only OEX options and the unusual market conditions that would trigger the availability of additional OEX series under the proposal occur infrequently. The CBOE represents that unusual market conditions occur no more than once a month on average.[6] To help determine whether unusual market conditions exist, the Exchange can look to a variety of factors and objective tools, including VIX, a volatility indicator.[7] Moreover, even when the CBOE determines that unusual market conditions exist, the Exchange explains that customer demand and market maker interest ultimately will determine how many additional series will be listed.[8] This should help to ensure adequate liquidity in new series.

In addition to representing that the number of additional series resulting from the proposal will not be significant, the CBOE does not believe that any additional series will pose a capacity problem. In this regard, the Commission notes that the Exchange retains the ability to limit new series and remove existing series. In addition, the Options Price Reporting Authority (''OPRA'') has represented that OPRA's capacity is sufficient to meet the expected demands of the additional strike prices.[9]

Accordingly, the Commission believes that the proposal should provide the Exchange with flexibility to open additional index options series and, at the same time, minimize capacity and continue to appropriately limit the number of index options series that may be outstanding at any one time. Indeed, the Exchange is not obligated to open new series every time the index value changes, and the CBOE should only open new series in a manner that is consistent with the maintenance of a fair and orderly market.

IV. Conclusion

For the foregoing reasons, the Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5).[10]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CBOE–99–04) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 41052 (February 12, 1999), 64 FR 8893.

[4] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

[6] *See* Letter from Stephanie C. Mullins, Attorney, CBOE, to Nancy Sanow, Senior Special Counsel, Division of Market Regulation, SEC, dated March 3, 1999 (''CBOE Letter'').

[7] According to the Exchange, VIX currently is at approximately 28 to 30, and unusual market conditions may occur if VIX reaches approximately 40 or above.

[8] *See* CBOE Letter, *supra* note 6.

[9] *See* CBOE Letter, *supra* note 6 and Letter from Joe P. Corrigan, Executive Director, Options Price Reporting Authority, to Stephanie C. Mullins, Attorney, Chicago Board Options Exchange, dated February 9, 1999.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).