

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 the principal office 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 No. SR-NASDAQ-2011-128 and should be submitted on or before September 28, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65382; File No. SR-FINRA-2011-050]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Rule Cross-References and Make Non-Substantive Technical Changes to Certain FINRA and NASD Rules

September 22, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 14, 2011, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission

("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to update cross-references within certain FINRA rules to reflect changes adopted in the consolidated FINRA rulebook and to make non-substantive technical changes to certain FINRA and NASD Rules.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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, Proposed Rule Change

###### 1. Purpose

FINRA is in the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook").<sup>4</sup> That process involves FINRA submitting

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

to the Commission for approval a series of proposed rule changes over time to adopt rules in the Consolidated FINRA Rulebook. The phased adoption and implementation of those rules necessitates periodic amendments to update rule cross-references and other non-substantive technical changes in the Consolidated FINRA Rulebook.

The proposed rule change would update rule cross-references to reflect changes adopted in the Consolidated FINRA Rulebook. In this regard, the proposed rule change would update references in FINRA Rule 9217 (Violations Appropriate for Disposition Under Plan Pursuant to SEA Rule 19d-1(c)(2)) that are needed as the result of Commission approval of a recent FINRA proposed rule changes [sic].<sup>5</sup> Furthermore, the proposed rule change would make a technical change to paragraph (m) of FINRA Rule 7410 (Definitions) to update FINRA's definition of "Program Trade" to correspond with that of the NYSE Rule 132B.<sup>6</sup>

The proposed rule change would also delete from FINRA Manual the Series heading for NASD Rule 3200 (Settlement) to reflect that the NASD Rule 3200 Series has been replaced by FINRA Rules 4311, 4320, and 5330.<sup>7</sup>

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date for the proposed rule changes to FINRA Rules 7410, 9217, and NASD Rule 3200 will be October 17, 2011.

###### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>8</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the

<sup>5</sup> See Securities Exchange Act Release No. 64687 (June 16, 2011), 76 FR 36586 (June 22, 2011) (Order Approving File No. SR-FINRA-2011-013).

<sup>6</sup> See Securities Exchange Act Release No. 55793 (May 22, 2007), 72 FR 29567 (May 29, 2007) (Order Approving File No. SR-NYSE-2007-34); and Securities Exchange Act Release No. 56726 (October 31, 2007), 72 FR 62719 (November 6, 2007) (Notice of Filing and Immediate Effectiveness of File No. SR-NYSE-2007-96).

<sup>7</sup> See Securities Exchange Act Release No. 61338 (January 12, 2010), 75 FR 2899 (January 19, 2010) (Order Approving File No. SR-FINRA-2009-084); Securities Exchange Act Release No. 62533 (July 20, 2010), 75 FR 43588 (July 26, 2010) (Order Approving File No. SR-FINRA-2010-028); and Securities Exchange Act Release No. 63999 (March 1, 2011), 76 FR 12380 (March 7, 2011) (Order Approving File No. SR-FINRA-2010-061).

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

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 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 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2011-050 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.

All submissions should refer to File Number SR-FINRA-2011-050. 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 the principal office of FINRA. 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-2011-050 and should be submitted on or before October 19, 2011.

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

**Elizabeth M. Murphy,**

*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-65383; File No. SR-CBOE-2011-040]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule to Simplify the \$1 Strike Price Interval Program**

September 22, 2011.

**I. Introduction**

On July 26, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change regarding opening index option months and series. The proposed rule change was published for comment in the **Federal Register** on August 9, 2011.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

**II. Description of the Proposal**

The proposal seeks to amend Interpretation and Policy .01 to Rule 5.5 to simplify the \$1 Strike Price Interval Program (the "Program"). The Exchange established the Program in 2003, and has subsequently modified it on several occasions.<sup>4</sup> The most recent expansion of the Program, in early 2011, increased the number of \$1 strike price intervals permitted within the \$1 to \$50 range.<sup>5</sup> This expansion, however, resulted in complex and lengthy rule text. In its filing, CBOE stated that the proposed changes to simplify the rule text of the Program will benefit market participants since the Program will be easier to understand and will maintain the expansions made to the Program in early 2011.

To simply the rules of the Program and as a proactive attempt to mitigate any unintentional listing of improper strikes, CBOE proposed the following amendments:

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 65031 (August 4, 2011), 76 FR 48935 ("Notice").

<sup>4</sup> See Securities Exchange Act Release No. 47991 (June 5, 2003), 68 FR 35243 (June 12, 2003) (SR-CBOE-2001-60); Release No. 57049 (December 27, 2007), 73 FR 528 (January 3, 2008) (SR-CBOE-2007-125); Release No. 59587 (March 17, 2009), 74 FR 12414 (March 24, 2009) (SR-CBOE-2009-001); Release No. 62443 (July 2, 2010), 75 FR 39608 (July 9, 2010) (SR-CBOE-2010-064).

<sup>5</sup> See Securities Exchange Act Release No. 63772 (January 25, 2011), 76 FR 5644 (February 1, 2011) (SR-CBOE-2011-006).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 200.30-3(a)(12).