CHICAGO BOARD OPTIONS EXCHANGE

Regulatory Circular RG09-37

To:	Members
From:	Trading Operations and Legal Divisions
Date:	March 23, 2009
Subject:	Elimination of FLEX Expiration Blackout Period

The SEC recently approved Rule Change File No. SR-CBOE-2008-115, which eliminated the expiration date restrictions for FLEX Options, so that FLEX Options may now expire on any business day subject to certain conditions. Previously, FLEX Options could not expire on any business day that falls on, or two business days before or after, a third Friday-of-the-month expiration (the old "blackout period").

Beginning tomorrow, March 24, 2009 members and member-sponsored users will be eligible to enter FLEX Options transactions with expiration dates that fall within the old blackout period. Trading in FLEX Options that expire within the old blackout period will be the same as trading in FLEX Options that expire on any other business day, subject to the following additional conditions:

<u>Requirements For All FLEX Options Expiring on a Third Friday-of-the-Month Expiration:</u>

- <u>Look-Alikes:</u> As long as the options on an underlying security or index are otherwise eligible for FLEX trading, FLEX Options are permitted in any series that is not already available for trading as a Non-FLEX Options series (*i.e.*, a FLEX Option put (call) series can be listed as long as it does not have the same expiration date, exercise style, <u>and</u> same exercise price as any Non-FLEX Option put (call) series that is already available for trading on the same underlying security or index). In addition, FLEX Options are permitted before the options are listed for trading as Non-FLEX Options. Once and if a "look-alike" option series is listed for trading as a Non-FLEX Options series, (i) all existing options positions established under the FLEX trading procedures will be fully fungible with the transactions in the look-alike Non-FLEX Option series (*i.e.*, the FLEX Option position would convert over to a Non-FLEX Option position); and (ii) any further trading in the series would be as Non-FLEX Options subject to the Non-FLEX trading procedures and rules.[1]

  Example: Assume that on April 15, 2009 a FLEX Trader establishes a FLEX Option position in a European-style, am-settled SPX 1650 Call option series with an expiration of Aug 16, 2013 (which would be a third-Friday-of-the-month expiration). In such an instance, once and if the Non-FLEX, European-style, am-settled SPX 1650 Call option series that expires on August 16, 2013 is listed for trading, the established FLEX Option position would be fully fungible with transactions in the Non-FLEX Option series. Any

[1] Please note that the fungibility and trading procedure requirements only apply to look alike FLEX and Non-FLEX Options that have a third Friday-of-the-month expiration. The fungibility and trading requirements do <u>not</u> apply to look alike Quarterly Options or look alike Weekly Options. Please also note that pre-existing FLEX Options established prior to March 24, 2009 will not be impacted by the rule change since any pre-existing FLEX Option positions were established subject to the old blackout period restriction and therefore could not have a third Friday-of-the-month expiration.

further trading in the series would be as Non-FLEX Options subject to the Non-FLEX trading procedures.

- Position & Exercise Limit Aggregation: As long as the options positions remain open, positions in FLEX Options with a third Friday-of-the-month expiration day shall be aggregated with positions in Non-FLEX Options and be subject to the Non-FLEX position limits set forth in Rule 4.11, 24.4, 24.4A, 24.4B or 29.5, as applicable, and the Non-FLEX exercise limits set forth in Rule 4.12, 24.5 or 29.7, as applicable. FLEX Options that expire on any business day other than a third Friday-of-the-month expiration (including the two business days before or after a third Friday-of-the-month expiration) are subject to the position and exercise limits for FLEX Options set out in Rules 24A.7, 24A.8, 24B.7 and 24B.8, as applicable.

- Expiration Friday Clarification: As with Non-FLEX Options, any FLEX Options that expire on a third Friday-of-the-month expiration will actually expire on Expiration Saturday in accordance with the OCC Rules. Using the example above, the FLEX Option that would expire on the third Friday-of-the-month expiration in August 2013 would discontinue trading on Friday, August 16, 2013 and expire on Saturday, August 17, 2013.

Special Requirements For FLEX Index Options Expiring Within the Old Blackout Period:

- A.M. Settlement: FLEX Index Options that expire on any day within the old blackout period (including any business day that falls on, or two business days before or after, a third Friday-of-the-month expiration) may only have an a.m. exercise settlement value, which is determined by reference to the reported level of the index as derived from opening prices of the component securities.

- Exercise Style: At least initially, FLEX Index Options that expire on a third Friday-of-the-month expiration may only have a European- or European-Capped-style exercise. FLEX Index Options that expire on any other business day (including the two business days before or after a third Friday-of-the-month expiration) can have a European-, European-Capped- or American-style exercise. The Exchange intends to make American-style exercises available for FLEX Index Options that expire on a third Friday-of-the-month expiration at a later date pending further system enhancements, which will be announced via separate circular.

- Automatic vs. Ex-by-Ex Procedures: In accordance with the OCC Rules, any FLEX Index Option with an exercise settlement amount of $1.00 or more will be automatically exercised on its expiration date. In comparison, an expiring Non-FLEX Index Option with an exercise settlement amount of $1.00 or more (except quarterly and weekly options) is subject to OCC's "exercise-by-exception" procedures under which the option will be exercised on its expiration date if the option holder does not give contrary exercise instructions. Therefore, please take note that a FLEX Index Option that is converted to a Non-FLEX Index Option (*see* "Look-Alikes" discussion above) would cease to be subject to the OCC's automatic exercise at expiration and will instead be subject to OCC's exercise-by-exception procedures. For additional information, please refer to OCC Rule Filing No. SR-OCC-2009-05.

For further information, please refer to the rule filing and Chapters XXIVA and XXIVB, which are located at www.cboe.org/legal. Additional questions may be directed to Andy Lowenthal at (312) 786-7180 or Lisa Morano at 312-786-7319.