

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76203; File No. SR-CBOE-2015-088)

October 20, 2015

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Disaster Recovery

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 8, 2015, Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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

The Exchange proposes to amend Rule 6.18 relating to disaster recovery. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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. The Exchange 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, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 6.18 relating to disaster recovery. Specifically, the Exchange proposes to update Rule 6.18 to further describe the Exchange’s back-up systems, the circumstances under which they may be used, and the testing that the Exchange may conduct to ensure the availability, functionality and performance of such systems. Additionally, the Exchange proposes certain updates to Rule 6.18 in response to new disaster recovery regulations and business resumption standards recently adopted by the Securities and Exchange Commission (“SEC” or “Commission”) as promulgated in Regulation Systems Compliance and Integrity (“Regulation SCI”) under the Act.⁵

Background

The Exchange adopted Rule 6.18 in 2006 for the limited purpose of providing alternative means of operation in the event of a physical disaster. In particular, Rule 6.18, as originally adopted, was intended to deal with trading floor closures, providing for the operation of a “Disaster Recovery Facility” (“DRF”) in the event that a disaster or other unusual circumstance

⁵ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 F.R. 72252 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7-01-13).

rendered the trading floor inoperable.⁶ Under original Rule 6.18, if the Exchange were forced to halt trading due to a disaster or other physical impairment of its trading floor, the Exchange and its members⁷ could operate remotely in a screen-based only environment from the DRF while the trading floor was unavailable. While operating from the DRF, open outcry trading would be suspended.

In 2012, Rule 6.18 was amended in connection with the Exchange's relocation of its primary data center to the East Coast and the consequent conversion of its former primary data center to a back-up data center in Chicago.⁸ Specifically, Rule 6.18 was amended to deal with newly possible situations in which the primary data center could continue to operate despite the trading floor being rendered inoperable or in which the back-up data center might be used despite the trading floor being operational. Specifically, as amended, Rule 6.18 provided that in the event that the Exchange were forced to switch operations to the back-up data center, the Exchange's trading floor could still be used and that in the event that the trading floor were inoperable, the Exchange could still operate using a floorless configuration or screen-based only environment on the Exchange's primary data center. References to the DRF and other irrelevant portions of the original rule were eliminated or replaced with references to [sic] Exchange's primary and back-up data centers as appropriate.

⁶ See Securities Exchange Act Release No. 54171 (July 19, 2006), 71 F.R. 42427 (July 26, 2006) (Order Approving Proposed Rule Change and Amendment No. 1 Thereto Regarding a Disaster Recovery Facility) (SR-CBOE-2006-001[sic]).

⁷ Prior to its demutualization in 2010, the Exchange was a member-owned organization. See Securities Exchange Act Release No. 62382 (June 25, 2010), 75 F.R. 38164 (July 1, 2010) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Conforming Changes in Connection With Demutualization) (SR-CBOE-2010-058).

⁸ See Securities Exchange Act Release No. 68301 (November 27, 2012), 77 F.R. 71650 (December 3, 2012) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend CBOE Rule 6.18 Concerning the Exchange's Disaster Recovery Facility) (SR-CBOE-2012-111).

In addition to adding greater detail to the Exchange's disaster recovery rules in Rule 6.18, the Exchange proposes to make updates to Rule 6.18 to harmonize its disaster recovery rules with the newly implemented disaster recovery-related regulatory imperatives of Regulation SCI. Regulation SCI supersedes and replaces the SEC's voluntary Automation Review Policy ("ARP"), established by the Commission's two policy statements each titled "Automated Systems of Self-Regulatory Organizations," issued in 1989 and 1991, expanding existing practices and making them mandatory.⁹ As part of Regulation SCI, the Exchange is required to maintain back-up and recovery capabilities with sufficient resiliency and geographical diversity and that are reasonably designed to achieve next business-day resumption of trading and two-hour resumption of critical systems following a wide-scale disruption.¹⁰ The Exchange must also participate in at least annual testing of its business continuity and disaster recovery plans and, to that end, develop and adopt standards to designate which of its TPHs must participate in testing in order to reasonably ensure the maintenance of a fair and orderly market if the Exchange's disaster recovery plan must be activated.¹¹ Although the Exchange's current Rules provide the Exchange sufficient authority to meet its disaster recovery-related obligations under Regulation SCI, the Exchange believes that certain clarifying updates to the Rules are warranted in light of Regulation SCI.

Proposed Rule Changes

The Exchange proposes to make changes to Rule 6.18 to provide additional details regarding the Exchange's back-up trading systems and business continuity and disaster recovery

⁹ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 F.R. at 72252 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7-01-13).

¹⁰ 17 C.F.R. 242.1001(a)(2)(v).

¹¹ Id. at 242.1004.

plans activation and testing. As discussed above, the Exchange also seeks to update its disaster recovery rules to ensure consistency with Regulation SCI.

Current Rule 6.18 is divided into five sections, (a) through (e). Rule 6.18(a) authorizes the Exchange to maintain a back-up data center to preserve the Exchange's ability to trade options in the event the Exchange's primary data center becomes inoperable or otherwise unavailable for use. Rule 6.18(a) also authorizes the Exchange to operate in a screen-based only environment using a floorless configuration in the event that the trading floor becomes inoperable. Rule 6.18(b) describes the notice that must be given prior to commencing trading on back-up data center systems. Rule 6.18(c) describes the rules that would be in effect if the Exchange were to switch its trading operations to the back-up data center and the rules that would be suspended if the Exchange were to operate in a screen-based only environment using a floorless configuration in the event that the trading floor becomes inoperable. Rule 6.18(d), prescribes that TPHs are required to take appropriate actions as instructed by the Exchange to accommodate the Exchange's ability to trade options via the back-up data center. Finally, current Rule 6.18(e) provides that nothing in 6.18 precludes the Exchange from entering into agreements to trade options elsewhere in accordance with Rule 6.16 (Back-up Trading Arrangements) in the event that the Exchange's trading floor is rendered inoperable.

The Exchange proposes to make rule changes to Rule 6.18 that would leave the current rule largely intact, but reorganized with detail added to each section of the current rule. Under proposed Rule 6.18(a) (General), rather than explaining the Exchange's back-up data center and alternative disaster-related trading configurations in the introductory section, the Exchange would adopt a general statement regarding the purpose of its disaster recovery rules, providing that the Exchange maintains business continuity and disaster recovery plans that may be effected

in the interests of the continued operation of fair and orderly markets in the event of a systems failure, disaster, or other unusual circumstances that might threaten the ability to conduct business on the Exchange. The content of current Rule 6.18(a) would be moved from the general section of Rule 6.18(a) to proposed Rule 6.18(b) regarding the Exchange's back-up data center.

Proposed Rule 6.18(b) (Back-up Data Center), would mirror current Rule 6.18(a), but would include a definitive statement that the Exchange maintains a back-up data center in order to preserve the Exchange's ability to conduct business in the event the Exchange's primary data center becomes inoperable or otherwise unavailable for use, rather than providing that the Exchange may maintain such back-up facilities. The Exchange also proposes to change the text of current Rule 6.18(a) in proposed Rule 6.18(b) to provide that the Exchange maintains a back-up data center in order to preserve the Exchange's ability to conduct business in the event the Exchange's primary data center becomes inoperable or otherwise unavailable for use, rather than to preserve only the Exchange's ability to trade options. This proposed rule change reflects the fact that the Exchange is engaged in business activities other than just the trading of options, including, but not limited to providing market data services and conducting regulatory functions.

Whereas the Exchange's current rules provide that the Exchange may determine to switch operations from the primary data center to the back-up data center due to a disaster or other unusual circumstances, proposed Rule 6.18(b) would add the scenario of a significant systems failure to the list of causes that may trigger an operational switch to the Exchange's back-up data center. The proposed addition of significant systems failures to the list of scenarios that may trigger an operational switch to the Exchange's back-up data center is intended to more acutely reflect the realities of electronic trading environments and contemporary threats posed to the operation of fair and orderly markets. The statements in current Rule 6.18(a) regarding

contingent alternative plans in the event that the Exchange’s trading floor becomes inoperable would be removed from the section and relocated to proposed Rule 6.18(c) (Loss of Trading Floor), which would be dedicated to the details of the Exchange’s authority in the event that the Exchange trading floor becomes inoperable. In addition to the reformulation of the description of the Exchange’s back-up data center in proposed Rule 6.18(b), proposed Rule 6.18(b) would also contain subsections setting forth the notice, applicable rules, and Trading Permit Holder (“TPH”) preparations provisions currently contained in Rules 6.18(b) through (d).

Proposed Rule 6.18(b)(i) (Back-up Data Center Functionality), would make clear the functional and performance standards that the back-up data center must be reasonably designed to achieve. Specifically, proposed Rule 6.18(b)(i) would provide that the Exchange maintains a back-up data center that the Exchange has determined is reasonably designed to achieve prompt resumption of systems in [sic] manner consistent with the Exchange’s obligations under Regulation SCI.¹² Proposed Rule 6.18(b)(i) would also provide that nothing in the provisions of proposed Rule 6.18(b) shall be interpreted to require the Exchange to develop or maintain a back-up data center designed to fully replicate the capacity, latency, and other features of the primary data center. This statement attempts to make clear that in order to preserve the Exchange’s ability to conduct business in the event the Exchange’s primary data center becomes inoperable or otherwise unavailable for use, the Exchange must maintain a back-up data center

¹² Among other things, Regulation SCI requires that the Exchange “establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems . . . have levels of capacity, integrity, resiliency, availability, and security, adequate to maintain . . . [sic] [the Exchange’s] operational capability and promote the maintenance of fair and orderly markets.” See 17 CFR §242.1001(a)(1). With respect to business continuity and disaster recovery plans, such standards mean that, at a minimum, the Exchange shall maintain “backup and recovery capabilities sufficiently resilient and geographically diverse [sic] that they [sic] are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption.” See *id.* at §242.1001(a)(2)(v).

that is reasonably designed achieve resumption of systems in a manner consistent with Regulation SCI during a significant systems failure, disaster or other unusual circumstances, rather than replicate the Exchange's primary data center systems. The Exchange believes that the standards set forth in proposed Rule 6.18(b)(i) are reasonable to help ensure the maintenance of fair and orderly markets in the event of a significant systems failure, disaster or other unusual circumstances and are consistent with provisions in the release language of Regulation SCI.¹³

Proposed Rule 6.18(b)(ii) (Notice), would be the same as current Rule 6.18(b) and provide that prior to commencing trading on the back-up data center, the Exchange shall announce publicly the classes that will be available for trading. Proposed Rule 6.18(b)(iii) (Applicable Rules) would be the same as current Rule 6.18(c) and provide that the same rules that apply to trading using primary data center systems would be applicable to trading on back-up data center systems. The applicable rule exceptions with respect to the suspension of open outcry trading on the floor, however, would be removed from proposed Rule 6.18(b)(iii) and relocated to proposed Rule 6.18(c) (Loss of Trading Floor). Accordingly, proposed Rule 6.18(b)(iii) would provide that in the event the primary data center becomes inoperable, trading will continue using the back-up data center and all trading rules will remain in effect. Consistent with current Rule 6.18(c), the proposed rule would also contain the provisions that only conduct permissible pursuant to trading rules that are in force shall be allowed via the back-up data center and that all non-trading rules of the Exchange shall continue to apply.

Proposed Rule 6.18(b)(iv) (Trading Permit Holder Participation) regarding testing of the Exchange's back-up data center would contain provisions similar to current Rule 6.18(d)

¹³ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 F.R. at 72353 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7-01-13).

(Trading Permit Holder Preparations), but add subparagraphs to more clearly articulate the Exchange's authority to conduct testing of its back-up data center systems. Thus, similar to current Rule 6.18(d), proposed Rule 6.18(b)(iv) would provide that TPHs are required to take appropriate actions as instructed by the Exchange to accommodate the Exchange's ability to trade options via the back-up data center. Similar to the proposed changes to the text of current Rule 6.18(a) with respect to the purpose for which the Exchange maintains a back-up data center, for the reasons discussed above, the Exchange also proposes changing the rule text in proposed Rule 6.18(b)(iv) to provide that TPHs are required to take appropriate actions as instructed by the Exchange to accommodate the Exchange's ability to conduct business via the back-up data center, rather than solely to accommodate the Exchange's ability to conduct business [sic]. Under the proposed rule change, the title of current Rule 6.18(d) (Trading Permit Holder Preparations) would also be changed in proposed Rule 6.18(b)(iv) (Trading Permit Holder Participation) to better describe the purpose of the rule provisions.

Subsections (A) through (C) of proposed Rule 6.18(b)(iv) are designed to harmonize the Exchange's back-up data center testing rules with certain provisions of Regulation SCI. Under proposed Rule 6.18(b)(iv)(A) (Designated BCP/DR Participants), the Exchange shall designate those Trading Permit Holders that the Exchange determines are, as a whole, necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange's business continuity and disaster recovery plans ("Designated BCP/DR Participants"). Under proposed Rule 6.18(b)(iv)(A)(1), Designated BCP/DR Participants will be identified based on criteria determined by the Exchange and announced via Regulatory Circular, which may include whether the Trading Permit Holder ("TPH") is an appointed Designated Primary Market-Maker ("DPM"), Lead Market-Maker ("LMM") or Market-Maker in a class and the quality of markets

provided by the DPM, LMM, or Market-Maker,¹⁴ the amount of volume transacted by the market participant in a class or on the Exchange in general, operational capacity, trading experience, and historical contribution to fair and orderly markets on the Exchange. Under proposed Rule 6.18(b)(iv)(A)(2), Designated BCP/DR Participants shall include, at a minimum, all Market-Makers in option classes exclusively listed on the Exchange that stream quotes in such classes and all DPMs in multiply listed option classes. Although under the proposed rule, Designated BCP/DR Participants would definitively include all Market-Makers in option classes exclusively listed on the Exchange that stream quotes in such classes and all DPMs in multiply listed option classes, the proposed rule would leave open the possibility that other market participants might be designated by the Exchange as Designated BCP/DR Participants based on certain of the criteria listed in proposed Rule 6.18(b)(iv)(A)(1) and announced via Regulatory Circular. Any changes to the standards by which a market participant might be determined to be a Designated BCP/DR Participant would be applied prospectively with reasonable advance notice as announced via Regulatory Circular. The Exchange would first announce the criteria by which market participants would be determined to be Designated BCP/DR Participants by November 1, 2015.

The Exchange has attempted to model the provisions of proposed Rule 6.18(b)(iv)(A) based on provisions of Regulation SCI, which require the Exchange to establish standards for the designation of those members or participants that the Exchange reasonably determines are, taken as a whole, the minimum number of members or participants necessary for the maintenance of fair and orderly markets in the event of the activation of its business continuity and disaster

¹⁴ Among other things, quality of markets provided refers to the average size quoted in a class, percentage quoting on NBBO, how many series are quoted in a class, and how many calendar months out from present day a participant normally quotes.

recovery plans.¹⁵ Also consistent with Regulation SCI, proposed Rule 6.18(b)(iv)(B) (Fair and Orderly Market Conditions) would make clear that nothing in proposed Rule 6.18(b) would require the Exchange to assume that average levels of liquidity, depth, or other characteristics of a usual trading session must be present in order to achieve a fair and orderly market in the event of the activation of the Exchange's business continuity and disaster recovery plans.¹⁶

Proposed Rule 6.18(b)(iv)(C) (Business Continuity and Disaster Recovery Plans Testing), would provide that The [sic] Exchange shall require Designated BCP/DR Participants and may require other market participants to participate in scheduled business continuity and disaster recovery plans tests in the manner and frequency prescribed by the Exchange. Proposed Rule 6.18(b)(iv)(C) would set forth the Exchange's authority to conduct testing of business continuity and disaster recovery plans and obtain assistance from Designated BCP/DR Participants and other market participants in conducting such tests. The Exchange notes that the provisions of proposed Rule 6.18(b)(iv)(C) are consistent with the Exchange's current rules¹⁷ as well as provisions of Regulation SCI pertaining to business continuity and disaster recovery plan testing.¹⁸ Proposed Rule 6.18(b)(iv)(C)(1) (Documentation and Reports), would provide that the Exchange may require Designated BCP/DR Participants and/or other market participants to provide documentation and reports regarding tests conducted pursuant to Rule 6.18, including related data and information, as may be requested by the Exchange, and in the manner and frequency prescribed by the Exchange. Proposed Rule 6.18(b)(iv)(C)(2) (Notice), would provide

¹⁵ See 17 C.F.R. 242.1004(a)-(b).

¹⁶ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 F.R. at 72353 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7-01-13).

¹⁷ See Rules 6.23A (Trading Permit Holder Connectivity); 6.18(d) (Trading Permit Holder Preparations).

¹⁸ See 17 C.F.R. 242.1004(a)-(b).

that the Exchange will provide reasonable prior notice of scheduled business continuity and disaster recovery plans tests to Trading Permit Holders, which notice shall describe the general nature of the test(s) and identify the Trading Permit Holders required to participate and shall be announced via Regulatory Circular.

Proposed Rule 6.18(c) (Loss of Trading Floor), would be substantially similar to provisions in current Rule 6.18(a) (General), regarding loss of the trading floor, which would be removed from proposed Rule 6.18(b) (Back-up Data Center) and more appropriately placed in a separate section regarding the Exchange's trading floor facilities. Under proposed Rule 6.18(c), if the Exchange trading floor were to become inoperable, the Exchange would have the authority to continue to operate in a screen-based only environment using a floorless configuration of the Hybrid Trading System located in the primary data center that is operational while the trading floor is inoperable. The Exchange would operate using this configuration only until the Exchange's trading floor facility is operational and open outcry trading would not be available in the event the trading floor becomes inoperable, except in accordance with Rule 6.16 (Back-up Trading Arrangements), as applicable.

Proposed Rule 6.18(c)(i) (Applicable Rules), would mirror current Rule 6.18(c) (Applicable Rules), except that the current rule would be updated in proposed Rule 6.18(c)(i) to include additional rules pertaining to open outcry trading, including, but not limited to Rule 6.12A (Public Automated Routing System (PAR)) and Rule 7.12 (PAR Official). Thus, under proposed Rule 6.18(c)(i), in the event that the trading floor becomes inoperable, trading would be conducted pursuant to all applicable Hybrid System rules, except that open-outcry rules would not be in force. In these circumstances, a non-exclusive list of open outcry trading rules that would not apply would include either all, or some portion of, Rules 6.2, 6.2A, 6.8, 6.8B, 6.9,

6.12; 6.12A, 6.13A, 6.20, 6.22, 6.23, 6.45, 6.47, 6.54, 6.74, 7.12, 8.15, and 8.17.¹⁹ Proposed Rule 6.18(c)(ii) (Other Back-up Trading Arrangements), would be similar to current Rule 6.18(e), making clear that proposed Rule 6.18 would not preclude the Exchange from conducting business on the floor of another exchange pursuant to Rule 6.16 (Back-up Trading Arrangements), in the event the trading floor is rendered inoperable.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act²⁰ and Regulation SCI.²¹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²² requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a

¹⁹ In an effort to shorten and simply [sic] the Exchange's disaster recovery rule, the Exchange proposes to eliminate redundant parenthetical information referencing the titles of each of the rules cited in Rule 6.18. The rules and respective titles of the rules cited in proposed Rule 6.18(c)(i) include the following: 6.2 (Trading Rotations); 6.2A (Rapid Opening System); 6.8 (RAES Operations); 6.8B (Automatic ORS Order Execution Against Booked Orders); 6.9 (Solicited Transactions); 6.12 (CBOE Hybrid Order Handling System); 6.12A (Public Automated Routing System (PAR)); 6.13A (Simple Auction Liaison (SAL)); 6.20 (Admission to and Conduct on the Trading Floor; Trading Permit Holder Education); 6.22 (Trading by Trading Permit Holders on the Floor); 6.23 (Trading Permit Holder Wires from Floor [sic]); 6.45 (Priority of Bids and Offers – Allocation of Trades); 6.47 (Priority on Split-Price Transactions Occurring in Open Outcry); 6.54 (Accommodation Liquidations (Cabinet Trades)); 6.74 (Crossing Orders); 7.12 (PAR Official); 8.15 (Lead Market-Makers and Supplemental Market-Makers in Hybrid 3.0 Classes); and 8.17 (Stopping of Option Orders).

²⁰ 15 U.S.C. 78f(b).

²¹ See 17 C.F.R. 242.1001(a) and 1004.

²² 15 U.S.C. 78f(b)(5).

national market system, and, in general, to protect investors and the public interest.

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change is designed to promote the Exchange's ability to ensure the continued operation of a fair and orderly market in the event of a systems failure, disaster, or other unusual circumstances that might threaten the ability to conduct business on the Exchange. The Exchange recognizes that switching operations to the back-up data center may occur in times of uncertainty or great volatility in the markets. It is at these times that the investors may have the greatest need for viable, trustworthy marketplaces. The proposed rule changes seek to ensure that such a marketplace will exist when most needed. Accordingly, the Exchange believes that the proposed rule protects investors in the most fundamental sense by helping to ensure that a fair and orderly market will exist at a time when such a market may be most needed.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade by adding detail and clarity to the Rules. The proposed rule change seeks to provide additional clarity to the Exchange's disaster recovery rules, putting all market participants on notice as to how the Exchange will function in case of significant systems disruption or other disaster situation. The Exchange is continuously updating the Rules to provide additional detail, clarity, and transparency regarding its operations and trading systems and regulatory authority. The Exchange believes that the adoption of detailed, clear, and transparent rules reduces burdens on competition and promotes just and equitable principles of

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Id.

trade. The Exchange also believes that adding greater detail to the Rules regarding the Exchange's ability to ensure the continuous operation of the market and preserve the ability to conduct business on the Exchange will increase confidence in the markets and encourage wider participation in the markets and greater investment. Finally, the Exchange notes that proposed Rule 6.18 is designed to harmonize the Exchange's disaster recovery rules with Regulation SCI under the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change will help ensure that competitive markets remain operative in the event of a systems failure or other disaster event. The Exchange notes that the proposed rule change is designed to clarify the Exchange's authority to require market participants to participate in, and provide necessary liquidity to ensure fair and orderly markets. The Exchange further notes that the proposed rule change is designed to ensure competitive markets in that it is designed around the mandates of Regulation SCI, which each of the national securities exchanges is required to satisfy.

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

The Exchange neither solicited nor received written comments on the proposed rule change.

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

Because the 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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁴ and Rule 19b-4(f)(6) thereunder.²⁵

A proposed rule change filed under Rule 19b-4(f)(6)²⁶ normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii)²⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change does not present any novel or controversial issues. Rather, the Exchange is merely reorganizing its existing rule, updating cross-references to incorporate previously adopted rules, or adding provisions that are consistent with or required by Regulation SCI. In addition, the Exchange has represented that much of the proposed rule change is already permitted under the Exchange's existing rule. Accordingly, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to incorporate changes required under Regulation SCI, such as establishing

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission deems this requirement to have been met.

²⁶ 17 CFR 240.19b-4(f)(6).

²⁷ 17 CFR 240.19b-4(f)(6)(iii).

standards for designating BCP/DR Participants, prior to the November 3, 2015 compliance date. Therefore, the Commission designates the proposed rule change to be operative upon filing.²⁸

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.

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. Please include File Number SR-CBOE-2015-088 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2015-088. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies

²⁸ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 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 Number SR-CBOE-2015-088, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Brent J. Fields
Secretary

²⁹ 17 CFR 200.30-3(a)(12).