

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54338; File No. SR-CBOE-2006-49)

August 21, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto to Allow Listing of up to Seven Short-Term Options Series per Class

On June 27, 2006, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to modify its short-term option series pilot program (“Pilot Program”)³ to change the number of short-term series that may be listed in an options class from five to seven. The Exchange filed Amendment No. 1 with the Commission on July 11, 2006.⁴ The amended proposal was published for comment in the Federal Register on July 19, 2006.⁵ No comments were received. This order approves the proposed rule change, as amended.

The Pilot Program currently provides that the Exchange may open up to five short-term series for each expiration date in an approved class. CBOE has proposed to increase the maximum to seven. The Exchange has stated it would list approximately the same number of series with strike prices above and below the price of the underlying security or value of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR-CBOE-2004-63) (approving short-term option series on a pilot basis through July 12, 2006). The Pilot Program has since been extended through July 12, 2007. See Securities Exchange Act Release No. 53984 (June 14, 2006), 71 FR 35718 (June 21, 2006) (SR-CBOE-2006-48).

⁴ In Amendment No. 1, a partial amendment, the Exchange corrected a typographical error in the proposed rule text.

⁵ See Securities Exchange Act Release No. 54133 (July 12, 2006), 71 FR 41062.

index at about the time the series is opened. CBOE also proposed that, if the Exchange has opened less than seven series in a particular options class for a given expiration date, it could open additional series in that class if the Exchange deems it necessary to maintain an orderly market or meet customer demand, or when the current value of the underlying index moves substantially from the exercise price or prices of the series already opened.

After careful review, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposal is a reasonable expansion of a Pilot Program that offers the market potentially useful products while not appearing to raise any concerns about quote capacity.⁸

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

⁸ The Exchange, should it wish to propose an extension, expansion, or permanent approval of the Pilot Program, must submit a report on the Pilot Program to the Commission. See Securities Exchange Act Release No. 51172 (February 9, 2005), 70 FR 7979 (February 16, 2005). The Commission notes that the Exchange submitted a report on June 13, 2006, in connection with its filing to extend the Pilot Program through July 12, 2007. See Securities Exchange Act Release No. 53684 (June 14, 2006), 71 FR 35718 (June 21, 2006).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-CBOE-2006-49), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Nancy M. Morris
Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).