

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53771; File No. SR-CBOE-2006-39)

May 8, 2006

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated;
Notice of Filing of a Proposed Rule Change Regarding the e-DPM Membership
Ownership Requirement**

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 April 20, 2006, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 clarify the application of the e-DPM membership ownership requirement. The text of the proposed rule change is set forth below. New text is underlined.

Chicago Board Options Exchange, Incorporated

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Rule 8.92. Electronic DPM Program

(a) – (c) No change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(d) Membership Requirement. Until July 12, 2007, each e-DPM organization is required to (i) own one Exchange membership for every 30 products allocated to the e-DPM; or (ii) lease one Exchange membership for every 20 products allocated to the e-DPM. After July 12, 2007, each e-DPM organization is required to own one Exchange membership for every 30 products allocated to the e-DPM. An Exchange membership shall include a transferable regular membership or a Chicago Board of Trade full membership that has effectively been exercised pursuant to Article Fifth(b) of the Certificate of Incorporation. Memberships used to satisfy this requirement may not be used for any other purpose including being leased to another member, to comply with the DPM membership ownership requirement of Rule 8.85(e), or for trading on the trading floor. For purposes of this Rule, the term “product” refers to all options of the same single underlying security/value. An e-DPM organization shall be deemed to own or lease an Exchange membership for purposes of this paragraph (d) if its parent company owns or leases seats that are used solely for the e-DPM organization’s e-DPM activities.

(e) No change.

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

In its filing with the Commission, CBOE 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. CBOE 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 clarify the application of CBOE Rule 8.92(d) relating to the e-DPM membership ownership requirement. That rule currently provides that, until July 12, 2007, each e-DPM organization is required to (i) own one Exchange membership for every 30 products allocated to the e-DPM; or (ii) lease one Exchange membership for every 20 products allocated to the e-DPM. After July 12, 2007, each e-DPM organization is required to own one Exchange membership for every 30 products allocated to the e-DPM.

The rule currently also makes clear that an Exchange “membership” includes a transferable regular membership or a Chicago Board of Trade full membership that has effectively been exercised pursuant to Article Fifth(b) of the Certificate of Incorporation, and that memberships used to satisfy the requirement may not be used for any other purpose including being leased to another member, to comply with the DPM membership ownership requirement of CBOE Rule 8.85(e), or for trading on the Exchange’s trading floor.

The proposed rule change proposes to make clear that a parent company of an e-DPM entity may own or lease the required memberships on behalf of the e-DPM entity provided such memberships are dedicated solely to the e-DPM organization’s e-DPM activity. For example, corporation XYZ owns multiple CBOE memberships and wholly owns e-DPM firm ABC. If some or all of the memberships owned by XYZ are used by ABC in connection with its e-DPM activity, those memberships would satisfy the requirements of CBOE Rule 8.92(d).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁴ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

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

CBOE does not believe that the proposed rule change will impose any burden on competition 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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which CBOE consents, the Commission will:

(A) by order approve such proposed rule change, or

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

(B) institute proceedings to determine whether the proposed rule change should be 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. Please include File Number SR-CBOE-2006-39 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2006-39. 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 inspection

and copying in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-2006-39 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Nancy M. Morris
Secretary

⁵ 17 CFR 200.30-3(a)(12).