

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54171; File No. SR-CBOE-2006-01)

July 19, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Regarding a Disaster Recovery Facility

On January 3, 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 regarding the establishment of a disaster recovery facility (“DRF”). On June 2, 2006, the Exchange submitted Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, was published for comment in the Federal Register on June 26, 2006.⁴ The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

The Exchange proposes to adopt new Exchange Rule 6.18, which contains the rules that would govern the operation of the DRF in the event of a disaster or other unusual circumstance that renders the Exchange’s trading floor inoperable. As set forth in the Notice, the DRF would allow CBOE’s members to operate remotely in a screen-based-only environment until the Exchange’s trading floor again became available. Prior to the commencement of trading on the DRF, the Exchange would announce all classes

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, CBOE made minor revisions to the proposed rule text and clarified certain details of its proposal.

⁴ See Securities Exchange Act Release No. 54014 (June 19, 2006), 71 FR 36367 (“Notice”).

of securities that would be traded on the DRF with priority given to those classes exclusively listed on the Exchange. The Exchange represents that it is able to conduct appropriate surveillance of trading activity on the DRF and has in place relevant surveillance procedures.⁵ All classes of securities traded on the DRF would be subject to the Exchange's Hybrid System rules relating to the electronic component of Hybrid trading and any applicable non-trading rules. To the extent system capacity limits the number of members that can quote on the DRF, proposed Exchange Rule 6.18 provides a priority system to select member participants. Connectivity procedures are available to all CBOE members. The Exchange represents that there is already sufficient member connectivity to ensure that the DRF, if activated, could operate in a useful manner.⁶

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(1) of the Act,⁸ which requires that an exchange is organized and has the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange.

Specifically, the Commission finds that proposed Exchange Rule 6.18 provides a business continuity plan that is reasonably designed to allow the Exchange to continue its

⁵ See Notice at 3.

⁶ Id.

⁷ In approving this proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(1).

trading operations in the event a disaster or other unusual circumstance renders the CBOE trading floor inoperable. Furthermore, the Commission believes the proposed rule change is reasonably designed to enhance the resilience of the U.S. financial markets generally.

In addition, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁹ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Commission finds the proposed rule change is reasonably designed to provide market participants with the necessary disclosure to understand the Exchange's operational capabilities and plans in the event of a disaster.

⁹ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-2006-01), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).