

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50775; File No. SR-CBOE-2004-64)

December 1, 2004

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Allocation of N-Second Group Trades Pursuant to Rule 6.45A(c)

On October 14, 2004, the Chicago Board Options Exchange, Inc. (“CBOE” or “Exchange”) submitted to 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 eliminate the Designated Primary Market-Maker (“DPM”) participation entitlement for trades occurring pursuant to CBOE Rule 6.45A(c). The Commission published the proposed rule change for comment in the Federal Register on November 1, 2004.³ The Commission received no comments on the proposed rule change.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.⁴ In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁵ which requires among other things, that the rules of the Exchange are designed to prevent fraudulent and manipulative acts

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 50583 (October 22, 2004), 69 FR 63418 (November 1, 2004).

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that by eliminating the DPM participation entitlement for trades occurring pursuant to CBOE Rule 6.45A(c), DPMs will be treated as any other market participant under the rule, allowing all market participants to be on equal footing.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-CBOE-2004-64) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland
Deputy Secretary

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).