

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51743; File No. SR-CBOE-2005-21)

May 25, 2005

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change Relating to the Exchange's Calculation of the National Best Bid or Offer When Another Exchange is Disconnected from the Intermarket Option Linkage

On March 17, 2005, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to amend its rule regarding the calculation of the National Best Bid or Offer ("NBBO") when another participant exchange in the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan") is disconnected from the Linkage.³ The proposed rule change was published for comment in the Federal Register on April 21, 2005.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term "Linkage" means the systems and data communications network that link electronically the options exchanges to one another for the purpose of sending and receiving Linkage Orders, related confirmations, order statuses and Administrative Messages. See Section 2(14) of the Linkage Plan.

⁴ See Securities Exchange Act Release No. 51540 (April 13, 2005), 70 FR 20780.

⁵ 15 U.S.C. 78f.

applicable to a national securities exchange.⁶ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of CBOE be designed to promote just and equitable principles of trade, 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. The Commission believes that it is appropriate for CBOE to remove an exchange's disseminated quote from CBOE's determination of the NBBO when an exchange is disconnected from Linkage because access to that exchange's quote is limited during such times. The Commission further believes that CBOE's existing rules establish appropriate procedures to notify promptly the affected exchange and CBOE members of such removal and establish an appropriate standard for when to resume inclusion of the affected exchange's quote in CBOE's NBBO calculation.⁸

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

⁷ 15 U.S.C. 78f(b)(5).

⁸ See CBOE Rule 6.13(e)(ii).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-CBOE-2005-21) is approved.

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

Margaret H. McFarland
Deputy Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).