List and Notice of Filing Materials
Under Seal; Filing Acceptance Date:
September 25, 2019; Filing Authority: 39
U.S.C. 3642, 39 CFR 3020.30 et seq., and
39 CFR 3015.5; Public Representative:
Christopher C. Mohr; Comments Due:
October 3, 2019.

This Notice will be published in the
Federal Register.

Darcie S. Tokioka,
Acting Secretary.

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SECURITIES AND EXCHANGE
COMMISSION

[Release No. 34–87107; File No. SR–CBOE–
2019–044]

Self-Regulatory Organizations; Cboe
Exchange, Inc.; Order Approving a
Proposed Rule Change To Adopt Rule
6.49B, Off-Floor RWA Transfers

September 25, 2019.

I. Introduction

On August 6, 2019, Cboe Exchange, Inc. (the “Exchange” or “Cboe
Options”) filed with the Securities and Exchange
Commission (“Commission”), pursuant to Section 19(b)(1) of the
Securities Exchange Act of 1934 (the
“Act”) 1 and Rule 19b–4 thereunder, 2 a
proposal to adopt Cboe Rule 6.49B to
add an exception to the general
prohibition against off-floor position
transfers. The proposed rule change
was published for comment in the Federal
Register on August 14, 2019. 3 The
Commission received two comment
letters on the proposal. 4 This order
approves the proposed rule change.

II. Description of the Proposed Rule
Change

Cboe Rule 6.49(a) generally requires
transactions of option contracts listed
on the Exchange for a premium in
excess of $1.00 to be effected on the
Exchange or on another exchange.
Notwithstanding the prohibition set
forth in Rule 6.49(a), Cboe Rule 6.49A(a)
specifies several circumstances under
which Trading Permit Holders (“TPHs”)
may effect transfers of positions off
exchange.

The Exchange proposes to adopt new
Cboe Rule 6.49B to add an additional
exception to the prohibition in Rule
6.49(a). Rule 6.49B provides that
notwithstanding Rule 6.49, existing
positions in options of a TPH or non-
TPH (including an affiliate of a TPH)
that are listed on the Exchange may be
transferred on, from, or to the books of
a Clearing Trading Permit Holder off
the Exchange if the transfer establishes a
net reduction of RWA attributable to those
options positions (an “RWA Transfer”). 5

An RWA transfer could not result in a
change in ownership, as it must occur
between accounts of the same Person. 6
Further, RWA Transfers may occur on a
routine, recurring basis 7 and may result
in the netting of positions. 8 However,
RWA Transfers may not result in
preferential margin or haircut


17 See supra note 4. One commenter noted that
the proposal “provides proper justifications for
fewer restrictions” on transfers involving no
material change of beneficial ownership. See SIG
Letter, supra note 4, at 2. The other commenter
stated that permitting RWA Transfers “allows
options market makers to recognize, in a more
economically rational way, the risk reducing
benefits of a balanced derivative portfolio—to the
benefit of investors generally.” See IMC Letter,
supra note 4, at 2.
18 See IMC Letter, supra note 4, at 2.
19 See, e.g., Notice, supra note 3, at 40462 (“These
are merely transfers from one clearing account
to another, both of which are attributable to the same
individual or legal entity. A market participant
effecting an RWA Transfer is analogous to an
individual transferring funds from a checking
account to a savings account, or from an account
at one bank to an account at another bank—the
money still belongs to the same person, who is just
holding it in a different account for personal
financial reasons.”). The Exchange also compared
Rule 6.49B as having a “similar result as changing
a give up or CMTA . . . just at a different time.” See id.
20 The Commission notes that, as is true for all
other off-floor transfers permitted under Rule
6.49A, RWA Transfers may not result in preferential
margin or haircut treatment. See proposed Rule
6.49D(d).

1. The proposed rule change is consistent with the requirements of the
Act, 10 and the rules and regulations
thereunder applicable to a national
securities exchange. 11 In particular,
the Commission finds that the proposed
rule change is consistent with Section
6(b)(5) of the Act, 12 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, and, in general, to protect
investors and the public interest and
that the rules are not designed to permit
unfair discrimination between
customers, issuers, brokers, or dealers.

The Commission notes that two
comment letters received from options
specifies several circumstances under
which Trading Permit Holders (“TPHs”)
may effect transfers of positions off
exchange.

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(August 8, 2019). 84 FR 40460 (“Notice”).
4 See Letters from Andrew Stevens, General
Counsel, IMC Chicago, LLC, to Vanessa
Countryman, Secretary, Commission, dated
September 4, 2019, available at https://
srcboe2019044-66072197-191467.pdf (“IMC Letter”),
and Gerald D. O’Connell, Compliance Coordinator,
Susquehanna International Group, LLP (“SIC”), to
Brent J. Fields, Secretary, Commission, dated
August 19, 2019, available at https://www.sec.gov/
comments/sr-cboe-2019-035/srcboe2019035-
5955436-19050.pdf (“SIG Letter”).

5 See proposed Rule 6.49B.
6 See proposed Rule 6.49B(e). Cboe Rule 1.1
defines “Person” as an individual, partnership (general or limited), joint stock company,
corporation, limited liability company, trust or
unincorporated organization, or any governmental
entity or agency or political subdivision thereof.
The Exchange represents that any RWA Transfers
will be subject to all applicable recordkeeping
requirements applicable to TPHs and Clearing
Trading Permit Holders under the Act. See Notice,
supra note 3, at 40463 n.24.
7 See proposed Rule 6.49B.
8 See proposed Rule 6.49B(c).
9 See proposed Rule 6.49B(d).
13 In approving this proposed rule change, the
Commission has considered the proposed rule’s
impact on efficiency, competition, and capital