

contact the NRC Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail at [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Ms. Rebecca L. Karas, Branch Chief, Geoscience and Geotechnical Engineering Branch 1, Division of Site and Environmental Reviews, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone 301-415-7533 or e-mail at [rebecca.karas@nrc.gov](mailto:rebecca.karas@nrc.gov).

Mr. Sujit K. Samaddar, Branch Chief, Structural Engineering Branch 2, Division of Engineering, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone 301-415-3309 or e-mail at [sujit.samaddar@nrc.gov](mailto:sujit.samaddar@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The agency posts its issued staff guidance in the agency external Web page (<http://www.nrc.gov/reading-rm/doc-collections/isp/>) (ML081400293).

Dated at Rockville, Maryland, this 19th day of May 2008.

For the Nuclear Regulatory Commission,  
**William D. Reckley,**

*Chief, Rulemaking, Guidance and Advanced Reactor Branch, Division of New Reactor Licensing, Office of New Reactors.*

[FR Doc. E8-11786 Filed 5-23-08; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8943]

### Notice of Opportunity for Hearing, Crow Butte Resources, Inc., Crawford, NE, In Situ Leach Recovery Facility, and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment, and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by July 28, 2008.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. Cohen, Project Manager, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-7182; fax number: (301) 415-5369; e-mail: [stephen.cohen@nrc.gov](mailto:stephen.cohen@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated November 27, 2007, a license amendment application from Crow Butte Resources, Inc. (CBR), requesting renewal of its Source Materials License for its in situ leach (ISL) uranium recovery facility located in Crawford, Nebraska. License No. SUA-1534 authorizes the licensee to operate an ISL uranium recovery facility to produce yellowcake. Specifically, the application requests that NRC renew CBR's current license for a standard 10-year period.

An NRC administrative review, documented in a letter to CBR dated March 28, 2008, found the application acceptable to begin a technical review. If the NRC approves the renewal request, the approval will be documented in an amendment to NRC License No. SUA-1534. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations. These findings will be reflected in a Safety Evaluation Report and in a separate environmental review document. This license renewal application contains Sensitive Unclassified Non-Safeguards Information (SUNSI) in the form of cultural and historic resource information.

## II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment regarding renewal of Source Materials License No. SUA-1534 issued to Crow Butte Resources for its ISL uranium recovery facility in Crawford, Nebraska. Any person whose interest may be affected by this proceeding, and who desires to participate as a party, must file a request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing, in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 FR 49139 (August 28, 2007). The E-Filing rule requires participants to submit and serve documents over the Internet, or in some cases, to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at

[hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), or by calling (301) 415-1677, to request: (1) A digital Identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requester (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requester will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requester has obtained a digital ID certificate, has a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m.,

Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by July 28, 2008.

In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the

application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.
  2. Environmental—primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.
  3. Miscellaneous—does not fall into one of the categories outlined above.
- If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: Request for License Renewal Transmittal Letter (ML073470645), License Renewal Application (combined technical and environmental reports), Part 1 (ML073480266), License Renewal Application (combined technical and environmental reports), Part 2 (ML073480267), and the acceptance review letter dated March 28, 2008 (ML080720341). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

#### Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation

1. This order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information.

2. Within ten (10) days after publication of this notice of opportunity for hearing any potential party as defined in 10 CFR 2.4 who believes access to SUNSI is necessary for a response to the notice may request access to such information. A "potential party" is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than ten (10) days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S.

Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are [HearingDocket@nrc.gov](mailto:HearingDocket@nrc.gov) and [OGCmail@nrc.gov](mailto:OGCmail@nrc.gov), respectively<sup>1</sup>. The request must include the following information:

a. A description of the licensing action with a citation to this **Federal Register** notice of opportunity for hearing];

b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed, if the licensing action is taken;

c. The identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

4. Based on an evaluation of the information submitted under items 2 and 3.a through 3.c, above, the NRC staff will determine within ten days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI.

5. A request for access to SUNSI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI; and

<sup>1</sup> See footnote 4. While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

d. The presiding officer has issued a protective order concerning the information or documents requested.<sup>2</sup> Any protective order issued shall provide that the petitioner must file SUNSI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

6. If the request for access to SUNSI is granted, the terms and conditions for access to such information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,<sup>3</sup> and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within five (5) days, describing the obstacles to the agreement.

7. If the request for access to SUNSI is denied by the NRC staff after a determination on standing, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing, by filing a challenge within five (5) days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to § 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

<sup>2</sup> If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

<sup>3</sup> Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (e.g., as with proprietary information).

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within five (5) days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes

concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.<sup>4</sup>

8. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in

identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. A suggested schedule is provided as Attachment 1 to this order.

Dated at Rockville, Maryland, this 20th day of May 2008.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

#### ATTACHMENT 1.—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI)

Day	Event
0 .....	Publication of [Federal Register notice/other notice of proposed action and opportunity for hearing], including order with instructions for access requests.
10 .....	Deadline for submitting requests for access to SUNSI with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted.
[20, 30 or 60] .....	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20 .....	NRC staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information. If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25 .....	If NRC staff finds no "need," "need to know," or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30 .....	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40 .....	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190 .....	(Receipt +180) If NRC staff finds standing and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit. Note: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205 .....	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A .....	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A+3 .....	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A+28 .....	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A+53 (Contention receipt +25) .....	Answers to contentions whose development depends upon access to SUNSI.
A+60 (Answer receipt +7) ....	Petitioner/Intervenor reply to answers.
B .....	Decision on contention admission.

<sup>4</sup> As of October 15, 2007, the NRC's final "E-Filing Rule" became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139;

Aug. 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRC staff determinations (because they must be

served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI requests submitted to the NRC staff under these procedures.

[FR Doc. E8-11724 Filed 5-23-08; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57836; File No. SR-CBOE-2008-54]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to Sponsored Users

May 19, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 12, 2008, Chicago Board Options Exchange, Incorporated ("CBOE" or the "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 substantially by 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 amend CBOE Rule 6.20A, *Sponsored Users*, to permit Sponsored User access to all products traded on CBOE. The text of the proposed rule change is available at <http://www.cboe.org/Legal>, the principal offices of the Exchange, and the Commission's Public Reference Room.

#### 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

CBOE is proposing to amend CBOE Rule 6.20A, *Sponsored Users*, which governs electronic access for the entry and execution of orders by Sponsored Users with authorized access and the applicable requirements that Sponsored Users and Sponsoring Members are required to satisfy in order to engage in a Sponsoring Member/Sponsored User relationship. Under the current Rule, the Sponsored User program is only applicable to CBOE's FLEX Hybrid Trading System ("FLEX") and the CBOE Stock Exchange ("CBSX") facility. Thus, currently a "Sponsored User" is defined as a person or entity that has entered into a sponsorship arrangement with a Sponsoring Member for purposes of receiving electronic access to FLEX and CBSX. CBOE is proposing to expand the rule to permit electronic access for the entry and execution of orders by Sponsored Users with authorized access to all other products traded on CBOE.

CBOE Rule 6.20A will apply to Sponsored Users with authorized access to all other products traded on CBOE in the same manner as it is currently applied to Sponsored Users with authorized access to FLEX and CBSX. Sponsored User access to CBOE will also be conditioned on the same requirements that are currently applied to Sponsored Users on FLEX and CBSX. Unlike the number of Sponsored Users for FLEX and CBSX, which can be unlimited, with respect to all other products trading on CBOE, this filing proposes that the number of Sponsored Users with such electronic access to CBOE be limited to a total of 15 persons/entities<sup>3</sup> (hereinafter referred to as "Sponsored User Slots").

Sponsored User applications for the CBOE Sponsored User Slots shall be submitted to the Exchange's Membership Department and will be processed in the order they are received on a time-stamped basis. Sponsored User applications may be submitted by hand-delivery, e-mail, or facsimile. For applications received via e-mail or facsimile, the time-stamp will be the

<sup>3</sup> For purposes of CBOE Rule 6.20A, a "Sponsored User" would now be defined as a person or entity that has entered into a sponsorship arrangement with a Sponsoring Member for purposes of receiving electronic access to the facilities and products specified in the Rule (referred to as the "Exchange System(s)"), which would now include the products traded on the FLEX Hybrid Trading System, CBOE and CBSX. See proposed changes to Rule 6.20A(a) and proposed Interpretation and Policy .01 to Rule 6.20A.

time the e-mail/facsimile is received by the Membership Department. If there are more applicants than Sponsored User Slots, the Exchange will maintain a waitlist and use a First In, First Out ("FIFO") method for filling the Sponsored User Slots. In the event a Sponsored User application is determined by the Membership Department to be incomplete,<sup>4</sup> the application will not be considered to have been submitted under the FIFO method until a completed application is submitted. The Exchange will issue a circular providing notice as to when the Exchange will begin accepting applications for the 15 Sponsored User Slots and will detail how the applications may be submitted to the Exchange's Membership Department. Lastly, the Exchange notes that persons (or entities) aggrieved in an economic sense by Exchange actions, including actions taken with respect to the Sponsored User Slots, may apply for an opportunity to be heard and have the complained-of action reviewed in accordance with Chapter XIX, Hearings and Review.

##### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general and furthers the objectives of Section 6(b)(5)<sup>6</sup> in particular in that the proposal is designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, 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

Written comments were neither solicited nor received.

#### 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)

<sup>4</sup> For example, an application would be considered incomplete if a Sponsoring Member has not agreed to sponsor the Sponsored User applicant's electronic access to CBOE.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.