

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68171; File No. SR-CBOE-2012-087)

November 6, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change to Amend Rule 17.2 Regarding Requests for Data Related to Exchange Reviews

I. Introduction

On September 4, 2012, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) 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 to amend Exchange Rule 17.2 (Complaint and Investigation) regarding the furnishing of data requested with respect to any review conducted by the Exchange pursuant to that Rule. The proposed rule change was published for comment in the Federal Register on September 24, 2012.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Rule 17.2 (Complaint and Investigation) to address the furnishing of data to the Exchange by a Trading Permit Holder (“TPH”) in connection with a regulatory review conducted by the Exchange. Specifically, the Exchange proposes to add Interpretations and Policies .04, which provides that “[i]n addition to the existing obligation under Exchange rules regarding the production of books and records, each TPH or TPH

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 67879 (September 18, 2012), 77 FR 58897 (“Notice”).

organization shall furnish upon request, in the manner and standard electronic format prescribed by the Exchange, data concerning orders, transactions, and positions, including related hedges and offsets, in relation to a regulatory review conducted by the Exchange.”

In the Notice, the Exchange stated that it currently requests and receives certain trade data from TPHs and TPH organizations on an ad hoc basis in connection with its regulatory responsibilities as a registered exchange. TPHs and TPH organizations provide such data to the Exchange in a variety of different manners and formats, and sometimes in a piecemeal manner.⁴ Because the form of the submitted information can be highly variable and the manner of submission is not standard, the Exchange represented that the Exchange’s Regulatory Division expends considerable resources in re-organizing and systematizing the information in order to be able to perform its review and analysis. In order to address this inefficiency, the Exchange now proposes to require TPHs to furnish, upon request, data in a standard manner and format as prescribed by the Exchange.

In the Notice, the Exchange represented that this change would allow the Exchange to develop uniform procedures and forms for the submission of data concerning orders, transactions, and positions, including related hedges and offsets.⁵ The Exchange stated that the existence of a standard format for the submission of the data would allow the TPHs to better prepare for regulatory responses and would allow the Exchange regulatory staff to review and analyze the requested data in a more efficient and organized manner which in turn will expedite

⁴ According to the Exchange, the data which the Exchange currently receives is provided in a comma-separated values format, and includes, when applicable, separate data fields for trade date, order entry time (milliseconds), cancel time (milliseconds), execution time (milliseconds), unique ticker symbol, side, execution price, event type, unique account identification, user ID, order ID, broker location, quantity, locate source for short sale, number of shares remaining after a partial execution, and the code of the exchange to which an order was routed.

such review and analysis.⁶ Pursuant to the new rule provision, the Exchange will publish by Regulatory Circular the required layout for the data that would be submitted to the Exchange.⁷

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁸ and the rules and regulations thereunder applicable to a national securities exchange.⁹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

The Commission believes that CBOE's proposed rule change is designed to facilitate the production of uniform data by TPHs, which will permit the Exchange's regulatory staff to make use of the data more readily than is currently the case. In particular, Exchange staff will no

⁵ See Notice, supra note 3, at 58898.

⁶ Id.

⁷ Id. The Exchange represented that it will not enforce compliance with Interpretations and Policies .04 until the Exchange has announced an implementation plan, including a subsequent compliance date, to its members, and that the Exchange expects to announce such implementation plan via a Regulatory Circular during the fourth calendar quarter of 2012. Id. The Exchange believes that the intervening period between the announcement of the implementation plan and the compliance date will allow TPHs time to prepare to comply. Id.

⁸ 15 U.S.C. 78f.

⁹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78f(b)(5).

longer have to take time to reconcile data that is submitted in disparate formats. In turn, this should benefit the Exchange's regulatory reviews by permitting more efficient use of Exchange resources. To this extent, the rule change is designed to help prevent fraudulent and manipulative practices, consistent with the Act, because obtaining data from TPHs in a uniform format will aid the Exchange's regulatory staff in the exercise of its regulatory authority. New Interpretations and Policies .04 should help facilitate the Exchange's decision making regarding determining causes of action and considering the appropriate regulatory response to a complaint or investigation, which will further the Act's goal of promoting just and equitable principles of trade.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CBOE-2012-087) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Kevin M. O'Neill
Deputy Secretary

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).