

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54827; File No. SR-CBOE-2006-81)

November 29, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Minor Rule Violations in Connection with Trade Reporting

On October 4, 2006, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) 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 CBOE Rule 17.50, “Imposition of Fines for Minor Rule Violations,” (the “MRVP”), particularly the provisions of CBOE Rule 17.50(g)(4), in order to: (a) increase the fines for failures to submit trade information in accordance with CBOE Rule 6.51, and (b) extend the “look-back” period for assessing such rule violations. On October 17, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on October 27, 2006.³ The Commission received no comments regarding the proposal.

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 54631 (October 20, 2006), 71 FR 63057.

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).

Act,⁵ because a proposed rule change that is reasonably designed to require Exchange members to comply with its trade reporting rules should help protect investors and the public interest.

The Commission also believes that handling violations of trade reporting rules pursuant to the MRVP is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,⁶ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing CBOE Rule 17.50 provides procedural rights to a person fined under the MRVP to contest the fine and permits a hearing on the matter, the Commission believes that the MRVP, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.⁷

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,⁸ which governs minor rule violation plans. The Commission believes that the proposed change to the MRVP should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with CBOE rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of any self-regulatory

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

⁷ 15 U.S.C. 78f(b)(7) and 78f(d)(1).

⁸ 17 CFR 240.19d-1(c)(2).

organization's rules, as well as Commission rules, is a serious matter. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that CBOE will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires formal disciplinary action under CBOE Rules 17.1-17.10.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁹ and Rule 19d-1(c)(2) under the Act,¹⁰ that the proposed rule change (SR-CBOE-2006-81), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 240.19d-1(c)(2).

¹¹ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).