

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55570; File No. SR-CBOE-2007-15)

April 2, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change to Amend CBOE's Membership Application Procedures to Incorporate Individuals Who Are Acting in an Exchange Trading Floor Capacity

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 14, 2007, The Chicago Board Options Exchange, Incorporated ("CBOE" or "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 substantially prepared 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its membership application procedures to incorporate those individuals who are acting in an Exchange trading floor capacity. Set forth below are the proposed changes to the rule text with additions underlined.

Chicago Board Options Exchange, Incorporated
Rules

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Rule 3.9. Application Procedures and Approval or Disapproval

(a) – (f) No Change.

(g) Any person applying pursuant to paragraph (a) of this Rule to have an authorized trading function is required to have completed the Exchange's Member Orientation Program and to have

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

passed an Exchange Trading Member Qualification Exam. Additionally, any person who has completed the Member Orientation Program and taken and passed the applicable Trading Member Qualification Exam and who then does not possess an authorized trading function or Exchange trading floor capacity for more than 1 year is required to complete the Member Orientation Program and to re-pass the applicable Trading Member Qualification Exam in order to once again become eligible to have an authorized trading function. A person must score 75% or better on the applicable Trading Member Qualification Exam in order to pass the Exam. Any person who fails the applicable Trading Member Qualification Exam must wait 30 days to re-take the Exam after failing the Exam for the first time, must wait 60 days to re-take the Exam after failing the Exam for the second time, and must wait 120 days to re-take the Exam after failing the Exam for a third or subsequent time. The Exchange may not waive any of the requirements set forth in this paragraph (g).

(h) - (l) No Change.

. . . Interpretations and Policies:

.01 No Change.

.02 No Change.

.03 For purposes of this rule, “Exchange trading floor capacity” means any person who is acting on behalf of the Exchange in an Exchange trading floor capacity, such as a PAR Official, Order Book Official, or other similar function.

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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

Exchange Rule 3.9, entitled "Application Procedures and Approval or Disapproval," outlines, among other things, the application procedures for an individual who desires to become a member of the Exchange. Paragraph (g) of Exchange Rule 3.9 currently requires any person applying to the Exchange to (i) have completed the Exchange's Member Orientation Program ("Orientation Program") and (ii) passed an Exchange Trading Member Qualification Exam ("Qualification Exam"). However, a person who has completed the Orientation Program and taken and passed the Qualification Exam but does not possess an authorized trading function for more than one year must again complete the Orientation Program and re-pass the Qualification Exam.

This filing proposes to amend CBOE's rules to provide that PAR Officials and Order Book Officials, as described in CBOE's rules and discussed below, as well as others acting in a similar capacity (i.e., an Exchange trading floor capacity), shall be included in the rule, in addition to those who possess an authorized trading function, since both functions are similar.

On November 18, 2005, the Commission approved a filing which created a new category of market participant called "PAR Officials."³ The PAR Official was established in response to the elimination of CBOE's rules as applied to Designated Primary Market-Makers ("DPMs")

³ See Securities Exchange Act Release No. 52798 (November 18, 2005), 70 FR 71344 (November 28, 2005) (SR-CBOE-2005-46).

executing orders as agents or Floor Brokers in their allocated option classes. The PAR Official is responsible for operating the PAR workstation trading stations, including handling and executing orders that are routed to the PAR workstation.

Specifically, the PAR Official is an Exchange employee or independent contractor designated by the Exchange to be responsible for (i) operating the PAR workstation; (ii) when applicable, maintaining the customer limit order book for the assigned option classes;⁴ and (iii) effecting proper executions of orders placed with him.

In addition to PAR Officials, the Exchange also employs “Order Book Officials” (“OBOs”) whose responsibilities include, among other things, (i) maintaining the book with respect to the classes of options assigned to him, (ii) effecting proper executions of orders placed with him, (iii) displaying bids and offers, and (iv) monitoring the market for the classes of options assigned to him.

The Exchange may employ former members, who previously acted in the capacity of a DPM before the initiation of the PAR Official, to act on behalf of the Exchange in a trading floor capacity. If these PAR Officials and OBOs become members of the Exchange after working for the Exchange in a trading floor capacity for longer than one year, these individuals would have to again complete the Orientation Program and re-pass the Qualification Exam under current CBOE Rule 3.9, since they would have not possessed an authorized trading function for longer than one year.

These PAR Officials and OBOs, while acting in an Exchange trading floor capacity, are ultimately acting in the same capacity as when they were operating in a DPM capacity prior to the initiation of the PAR Official trading floor capacity. Therefore, the Exchange feels that it is

⁴ This provision will not apply to option classes that are on the CBOE’s Hybrid System.

appropriate to amend its procedures to allow for the one year period under CBOE Rule 3.9(g) to be applied to not only an individual who has possessed an authorized trading function, but also to an individual who has acted in an Exchange trading floor capacity, since both functions are similar.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁵ in general and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is 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

No written comments were solicited or received with respect to the proposed rule change.

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) as the Commission may designate up to 90 days of such date if it finds

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which CBOE consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2007-15 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2007-15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those

that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2007-15 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Florence E. Harmon
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).