

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55786; File No. SR-CBOE-2007-15)

May 18, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change to Amend CBOE's Membership Application Procedures

I. Introduction

On February 14, 2007, 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 membership application procedures. The proposed rule change was published for comment in the Federal Register on April 10, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposed to amend Rule 3.9, entitled "Application Procedures and Approval or Disapproval," which 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"). A person who fulfills these requirements but does not possess an authorized trading function for more than one year must complete the Orientation Program and pass the Qualification Exam again before

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 55570 (April 2, 2007), 72 FR 17961 (April 10, 2007) (the "Notice").

becoming a member.⁴ If that person is not a member of the exchange for up to one year, he can submit an application to become a member again without having to complete the orientation program and the exam again.

CBOE proposed that PAR Officials and Order Book Officials (“OBOs”), as well as others acting in a similar capacity (i.e., an exchange trading floor capacity), be included in the rule, because the functions they perform as exchange employees are similar to the functions performed by members who are deemed to possess an authorized trading function.

In 2005, CBOE amended its rules to remove a Designated Primary Market-Maker’s (“DPM’s”) obligation to act as an agent or Floor Broker in its allocated securities on the Exchange.⁵ At the same time, the Exchange designated a PAR Official to be responsible for handling certain orders in the same manner as they were formerly handled by the DPM.⁶ 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;⁷ and (iii) effecting proper executions of orders placed with him.

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

⁴ An individual “possesses an authorized trading function” if he is approved to act as a market maker, floor broker, remote market maker (“RMM”) or nominee or person registered for an RMM or e-DPM organization.

⁵ See Securities Exchange Act Release No. 52798 (November 18, 2005), 70 FR 71344 (November 28, 2005) (SR-CBOE-2005-46).

⁶ Id.

⁷ This provision will not apply to option classes that are on the CBOE’s Hybrid System.

The Exchange may employ a former member, who acted in the capacity of a DPM before CBOE established the PAR Official position, 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 complete the Orientation Program and pass the Qualification Exam again under current Rule 3.9, since it would have been longer than one year since they had been acting in a capacity that has an authorized trading function.

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 before the CBOE established the PAR Official trading floor capacity. Therefore, the Exchange believes it is appropriate to amend its procedures to allow for the one-year period under CBOE Rule 3.9(g) to be applied to an individual who has acted in an Exchange trading floor capacity.

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁸ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁹ which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating 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.

⁸ 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).

⁹ 15 U.S.C. 78f(b)(5).

The Commission believes that the amendment to CBOE's rules to permit persons who had been acting in an exchange trading floor capacity within the last year to become members without completing the Orientation Program and passing the Qualification Examination again is a reasonable expansion of the exception to the rule. The functions performed by such persons are similar to those performed by members possessing an authorized trading function.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-2007-15), be, and hereby is, approved.

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

Florence E. Harmon
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).