

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56614; File No. SR-CBOE-2007-14)

October 4, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend CBOE's Membership Rules As Applied to Statutory Disqualification Hearings.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"), 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 described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 3.18 of its membership rules, titled Members and Associated Persons Who Are or Become Subject to a Statutory Disqualification, to modify the requirement that the Exchange hold a hearing to determine whether an associated person subject to a statutory disqualification under the Exchange Act may continue in association with an Exchange member. In particular, the Exchange proposes to allow its Membership Committee to waive the hearing provisions of Rule 3.18(c) when determining whether to allow such persons to continue in association with an

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Exchange member in those instances where Exchange Act Rule 19h-1(a)(2)³ does not require the Exchange to make a filing with the Commission on behalf of that person and where the Exchange intends to grant the associated person's application for continued association. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and at www.cboe.org/Legal.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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 those statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In accordance with Rule 3.18(a), the Exchange may determine not to permit an associated person of a member who is or becomes subject to a statutory disqualification under Exchange Act Section 3(a)(39)⁴ to continue in association with that member. Under CBOE Rule 3.18(b), an associated person who is or becomes subject to a statutory disqualification and wishes to continue in association with a member must submit an application to the Exchange to do so. When the Exchange receives such an application, or otherwise becomes aware that the associated person is subject to a statutory disqualification, the Exchange's Membership Committee is required to conduct a hearing,

³ 17 CFR 240.19h-1(a)(2).

⁴ 15 U.S.C. 78c(a)(39).

under procedures set forth in Rules 3.18(c) through 3.18(i), to determine whether to allow the associated person to continue in association with that member. The purpose of this rule filing is to allow the Exchange's Membership Committee to waive the requirement to conduct the hearing if Exchange Act Rule 19h-1(a)(2) does not require the Exchange to make a filing with the Commission on behalf of that associated person, and if the Exchange intends to grant the associated person's application for continued association.

In many instances, CBOE members conduct both securities activities at the Exchange as registered brokers or dealers, and futures activities at a commodities exchange as registered futures commission merchants with the Commodities Futures Trading Commission ("CFTC"). Typically, these member firms have employees who are only involved in the futures side of the member's business. However, because the member must be registered with the Commission as a broker-dealer to conduct its securities activities, under the Exchange Act the member's employees, including those involved only in futures and other non-securities-related activities, may also be considered persons associated with a broker-dealer under Exchange Act Section 3(a)(18).⁵ Even though, as discussed below, Rule 19h-1(a)(2) would not require a notice filing with the Commission on behalf of many of these persons, current CBOE rules require the Exchange to hold a hearing for each such associated person who becomes subject to a statutory disqualification, even if their activities are not securities-related. These hearings are time consuming, both for CBOE staff and for member firms that comprise the Membership Committee.

⁵ 15 U.S.C. 78c(a)(18). These employees may also be considered to be associated with a member under Exchange Act Section 3(a)(21).

Exchange Act Rule 19h-1 prescribes the form and content of, and establishes the mechanism by which the Commission reviews, proposals submitted by self-regulatory organizations (“SROs”), such as the Exchange, to allow persons subject to statutory disqualification to become or remain associated with member firms. Among other things, Rule 19h-1 provides for Commission review of notices filed by SROs proposing to admit to, or continue any person in, membership or association with a member, notwithstanding a statutory disqualification. However, in several instances, Rule 19h-1 provides that for certain persons, no such notice need be filed. In particular, Rule 19h-1(a)(2)⁶ provides that no notice filing is required for associated persons who, among other things, are not control persons, partners, officers, or employees engaged in securities-related activities.

In proposing this rule change, the Exchange notes that the CFTC administers and enforces a statutory disqualification scheme under the Commodity Exchange Act⁷ in connection with employees of members involved in futures activities that is similar to the statutory disqualification scheme under the Exchange Act. The Exchange believes that this proposed rule change would better enable the Exchange to focus resources on applications for continuance involving associated persons who are engaged in securities-

⁶ Exchange Act Rule 19h-1(a)(2) provides that, with respect to a person subject to a statutory disqualification and who is associated with a member of a national securities exchange or registered securities association, notices need to be filed with the Commission pursuant to Exchange Act Rule 19h-1 only if such person:

(i) Controls such member, is a general partner or officer (or person occupying a similar status or performing similar functions) of such member, is an employee who, on behalf of such member, is engaged in securities advertising, public relations, research, sales, trading, or training or supervision of other employees who engage or propose to engage in such activities, except clerical and ministerial persons engaged in such activities, or is an employee with access to funds, securities or books and records, or

(ii) Is a broker or dealer not registered with the Commission, or controls such (unregistered) broker or dealer or is a general partner or officer (or person occupying a similar status or performing similar functions) of such broker or dealer.

⁷ 7 U.S.C. § 1 et seq.

related activities and who are required by Exchange Act Rule 19h-1 to have filings with the Commission made on their behalf.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Exchange Act Section 6(b)(5),⁸ which requires, among other things, that the Exchange's rules be designed 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. The Exchange believes that, by permitting it to waive the hearing requirement for persons whose applications it intends to approve, and for whom no notice filing is required under Rule 19h-1(a)(2), the proposed rule change will better enable the Exchange to streamline the administration of its statutory disqualification program and better protect investors and the public interest by focusing its resources on other membership-related matters including continuance applications for associated persons that also require filings with the Commission.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

⁸ 15 U.S.C. 78f(b)(5).

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2007-14 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-2007-14. 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 Section, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. 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-2007-14 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.¹¹

Nancy M. Morris
Secretary

¹¹ 17 CFR 200.30-3(a)(12).