

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62602; File No. SR-CBOE-2010-069)

July 29, 2010

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its Minor Rule Violation Plan

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that, on July 20, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 17.50 - Imposition of Fines for Minor Rule Violations. The text of the proposed rule change is available on the Exchange's website (<http://www.cboe.com/Legal>), at the Exchange's principal office, and at the Commission's Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

In its filing with the Commission, the self-regulatory organization 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 August 2009, the U.S. Securities and Exchange Commission (“Commission”) approved a CBOE rule filing amending Rule 17.50 - Imposition of Fines for Minor Rule Violations.⁵ Among other things, the rule filing incorporated a number of additional violations into CBOE’s Minor Rule Violation Plan.⁶ However, that filing did not add references to those additional violations to Rule 17.50(c)(1), which sets forth the procedures for the appeal of certain fines imposed under the Minor Rule Violation Plan. The Exchange is proposing to add the subsections that were added to the Minor Rule Violation Plan in August 2009 to Rule 17.50(c)(1) to allow for the same appeal process for these additional violations.

In addition, CBOE proposes to revise Rule 17.50(g)(2) to incorporate violations relating to the late filing of monthly and quarterly FOCUS reports into the Minor Rule Violation Plan. Rule 17.50(g)(2) currently sets forth the fine schedule for the failure to file annual FOCUS reports on Form X-17A-5 in accordance with Rule 17a-10⁷ under the Securities and Exchange Act of 1934 (“Exchange Act”). CBOE proposes to expand this provision to include violations

⁵ See Securities Exchange Act Release No. 34-60488 (August 12, 2009), 74 FR 42139 (August 20, 2009) (SR-CBOE-2009-037).

⁶ See CBOE Rule 17.50(g)(11)-(g)(18).

⁷ 17 CFR 240.17a-10.

for failure to file FOCUS reports on Form X-17A-5 in accordance with Rule 17a-5⁸ under the Exchange Act. Thus, a Trading Permit Holder that submits a late monthly or quarterly FOCUS filing shall be assessed a fine between \$200 and \$800 pursuant to the minor rule violation plan depending on the number of days the FOCUS filing is late. If a Trading Permit Holder submits a FOCUS filing more than ninety days late, the Exchange will refer the matter to the Business Conduct Committee. CBOE notes that the minor rule violation plan in place at the NYSE AMEX LLC (“AMEX”) currently includes fines for similar violations under Exchange Act Rules 17a-5 and 17a-10.⁹

The Exchange also recently revised its order handling rules in connection with a new options industry linkage structure.¹⁰ Prior to that rule change, Rule 6.83 governed Order Protection and Rule 6.84 governed Locked or Crossed Markets. However, this amendment revised the rule numbers such that Rule 6.81 now governs Order Protection and Rule 6.82 governs Locked or Crossed Markets. However, the Exchange inadvertently failed to update references to those Rules in CBOE Rule 17.50(g)(12) and 17.50(g)(13), which set forth the fines for Order Protection Violations and Locked or Crossed Market Violations, respectively, under the Exchange’s Minor Rule Violation Plan. The Exchange is proposing to modify these rule references such that Rule 17.50(g)(12) refers to Rule 6.81 and Rule 17.50(g)(13) refers to Rule 6.82.

2. Statutory Basis

⁸ 17 CFR 240.17a-5.

⁹ See Parts 3(a) and 3(g)(A) of AMEX Rule 590.

¹⁰ See Securities Exchange Act Release No. 34-60551 (August 20, 2009), 74 FR 43196 (August 26, 2009) (SR-CBOE-2009-040).

The Exchange believes the proposed rule change is consistent with the Act¹¹ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule changes will strengthen its ability to carry out its oversight responsibilities as a self-regulatory organization and reinforce its surveillance and enforcement functions.

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

CBOE does not believe that the proposed rule change will impose any burden on competition 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

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change 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,

¹¹ 15 U.S.C. 78a et seq.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because the proposed change makes technical changes to the rule, clarifies minor omissions from the rule based on recent rule changes, and is generally consistent with the rules of another exchange.¹⁶ Therefore, the Commission designates the proposed rule change as operative upon filing.¹⁷

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

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of 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 Exchange has satisfied the five-day pre-filing requirement.

¹⁶ See Parts 3(a) and 3(g)(A) of AMEX Rule 590.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2010-069 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-CBOE-2010-069. 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 Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2010-069 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Florence E. Harmon
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12) and 200.30-3(a)(44).