

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57089; File No. SR-CBOE-2007-143)

January 3, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Pertaining to the Imposition of Fines for Minor Rule Violations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 27, 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 prepared substantially by the 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 Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 17.50, “Imposition of Fines for Minor Rule Violations,” to revise the provisions of CBOE Rule 17.50(g)(8) “Violations of Exercise and Exercise Advice Rules for Noncash-Settled Equity Options.” The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/Legal>), at the CBOE’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

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 these statements may be examined at the places specified

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

in Item IV below. The Exchange 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

The Exchange proposes to increase and strengthen the sanctions imposed by its Minor Rule Violation Plan ("MRVP") on any member who fails to submit to the Exchange in a timely manner pursuant to CBOE Rule 11.1 (or a Regulatory Circular issued pursuant to CBOE Rule 11.1) "Advice Cancel" or exercise instruction relating to the exercise or nonexercise of a noncash-settled equity option. The Exchange believes that increasing the fine levels specified with respect to both individual members and member organizations, and lengthening the surveillance period from a 12-month period to a rolling 24-month period will serve as an effective deterrent to such violative conduct.

In addition, the Exchange, as a member of the Intermarket Surveillance Group, as well as certain other self-regulatory organizations ("SROs") executed and filed on October 29, 2007 with the Commission, a final version of an Agreement pursuant to Section 17(d) of the Act (the "17d-2 Agreement").<sup>3</sup> As set forth in the 17d-2 Agreement, the SROs have agreed that their respective rules concerning the filing of Expiring Exercise Declarations, also referred to as Contrary Exercise Advices, of options contracts, are common rules. As a result, the proposal to amend the CBOE's MRVP will further result in consistency in sanctions among the SROs that are signatories to the 17d-2 Agreement concerning Contrary Exercise Advice violations.<sup>4</sup> In addition, the proposed rule change replaces the term "infraction" with the term "violation" to

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<sup>3</sup> See letter to Richard Holley, Senior Special Counsel, Division of Trading and Markets, Commission, from Nyieri Nazarian, Assistant General Counsel, American Stock Exchange LLC ("Amex"), dated October 29, 2007.

<sup>4</sup> See Amex Rule 590.

provide greater consistency among the signatories to the 17d-2 Agreement concerning Contrary Exercise Advice violations.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, facilitate transactions in securities, 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. Specifically, the Exchange believes that the proposed rule change will strengthen its ability to carry out its oversight responsibilities as an SRO and reinforce its surveillance and enforcement functions. Additionally, the Exchange believes that the proposed rule change will promote consistency in minor rule violations and respective SRO reporting obligations as set forth pursuant to Rule 19d-1(c)(2) under the Act,<sup>7</sup> which governs minor rule violation plans.

### 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 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

The Exchange neither solicited nor received comments on the proposal.

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<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 17 CFR 240.19d-1(c)(2).

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 such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-143 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-2007-143. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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-2007-143 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.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).