

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-59462; File No. SR-CBOE-2009-010)

February 26, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Exchange Regulatory Circular RG02-101 Issued Under Rule 17.50(g)(6) – Imposition of Fines for Minor Rule Violations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 18, 2009, Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder.<sup>4</sup> 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 Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend Regulatory Circular RG02-101 (Violations of Trading Conduct and Decorum Policies) issued in accordance with Exchange Rule 17.50(g)(6) - Imposition of Fines for Minor Rule Violations to provide the Exchange with the flexibility to allow Exchange members and their associated persons to bring certain foods and/or drinks to the trading floor as set forth by the Exchange in a separate Regulatory Circular. CBOE is also proposing several non-substantive changes. The text of the proposed rule change is available on the Exchange's website

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

<http://www.cboe.com/Legal>), at the Exchange's Office of the Secretary, and at the Commission.

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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is proposing to amend Regulatory Circular RG02-101 to enable the Exchange to adopt policies providing exceptions to the existing prohibition of food and drinks on the trading floor. In adopting this flexibility, the Exchange may notify members through a separate Regulatory Circular of food or drinks that would be permissible on the trading floor and, if applicable, any limitations on such permissible food and drinks. Violations of the food or drink policy would continue to be subject to the existing fine schedule as set forth in Exhibit 5. CBOE is proposing to adopt this flexibility to accommodate Members and Associated Persons that are unable to leave the trading floor during the day.

CBOE is also proposing several non-substantive changes. First, CBOE is proposing to remove the previous Regulatory Circular number as a new number will be assigned when the amended circular is issued. In addition, CBOE is proposing to update the contact information included on the Regulatory Circular. In particular, the Exchange is proposing issue the circular from its Legal Division and Member and Regulatory Services Division rather than the Floor Officials Committee. Further, CBOE is proposing to amend the Regulatory Circular to reflect

existing staff that may be contacted regarding questions about the Regulatory Circular and remove contact information that is no longer current. CBOE is also proposing to delete an unnecessary comma in the reference to one of the earlier circulars listed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(1) of the Act<sup>6</sup> in particular, to enable the Exchange to enforce compliance by its members and persons associated with its members with the rules of the Exchange.

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(3)<sup>8</sup> thereunder because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of the 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.

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

<sup>6</sup> 15 U.S.C. 78f(b)(1).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(3).

#### 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-2009-010 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-2009-010. 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 the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-2009-010 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>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).