

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58119; File No. SR-CBOE-2008-53)

July 8, 2008

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

On May 19, 2008, 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 CBOE Rule 17.50 (Imposition of Fines for Minor Rule Violations) and to revise the provisions of CBOE 17.50(g)(1) (Violations of Position Limits Rules). The proposed rule change was published for comment in the Federal Register on June 5, 2008.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The proposal would, in connection with any member or customer who exceeds the Exchange’s position limit in accordance with CBOE Rule 4.11, increase the fine levels specified in the Minor Rule Violation Plan (“MRVP”); consolidate individual members, member organizations, and customers into one category; and lengthen the surveillance period from a 12-month period to a rolling 24-month period.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57883 (May 29, 2008), 73 FR 32065.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C.

In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,⁵ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to facilitate 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. The Commission further believes that CBOE's proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,⁶ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing CBOE Rule 17.50 provides procedural rights to a person fined under the MRVP to contest the fine and permits a hearing on the matter, the Commission believes that the MRVP, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.⁷ In addition, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the

78c(f).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

⁷ 15 U.S.C. 78f(b)(7) and 78f(d)(1).

purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,⁸ which governs minor rule violation plans. The Commission believes that the proposed rule change should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with CBOE rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of any SRO rules, as well as Commission rules, is a serious matter. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that CBOE would continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the CBOE MRVP or whether a violation requires formal disciplinary action under CBOE Chapter XVII.

⁸ 17 CFR 240.19d-1(c)(2).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁹ and Rule 19d-1(c)(2) under the Act,¹⁰ that the proposed rule change (SR-CBOE-2008-53) be, and hereby is, approved and declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Acting Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 240.19d-1(c)(2).

¹¹ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).