

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 36      SECURITIES AND EXCHANGE COMMISSION      File No.\* SR - 2014 - \* 001  
 WASHINGTON, D.C. 20549      Form 19b-4      Amendment No. (req. for Amendments \*)

Filing by Chicago Board Options Exchange  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>
Section 806(e)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document       Exhibit 3 Sent As Paper Document

**Description**  
 Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).  
 Proposal to amend CBOE's rules to enhance the independence and integrity of the regulatory functions of the Exchange.

**Contact Information**  
 Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Corinne      Last Name \* Klott  
 Title \* Attorney  
 E-mail \* klott@cboe.com  
 Telephone \* (312) 786-7793      Fax (312) 786-7919

**Signature**  
 Pursuant to the requirements of the Securities Exchange Act of 1934,  
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.  
 (Title \*)  
 Date 01/10/2014      Assistant Secretary  
 By Jenny L. Golding  
 (Name \*)  
 NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.  
 Persona Not Validated - 1382733830495,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**Item 1. Text of the Proposed Rule Change**

(a) Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) proposes to amend its rules to enhance the independence and integrity of the regulatory functions of the Exchange. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

**Item 2. Procedures of the Self-Regulatory Organization**

(a) The Exchange’s Chief Regulatory Officer pursuant to delegated authority approved the proposed rule change on January 6, 2014.

(b) Please refer questions and comments on the proposed rule change to Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7462, or Corinne Klott, (312) 786-7793, Chicago Board Options Exchange, Incorporated, 400 South LaSalle, Chicago, Illinois 60605.

**Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a) Purpose

The Exchange proposes to amend certain rules to enhance the independence and integrity of the regulatory functions of the Exchange. Specifically, the Exchange seeks to amend Rule 2.1 (Committees of the Exchange), Rule 4.4 (Gratuities), Rule 17.2 (Complaint and Investigation), Rule 17.3 (Expedited Proceeding), Rule 17.4 (Charges), Rule 17.8 (Offers of Settlement) and Rule 17.50 (Imposition of Fines for Minor Rule Violations).

First, the Exchange proposes to amend Rule 2.1 (Committees of the Exchange). Rule 2.1 currently provides that the Chief Executive Officer (“CEO”) shall appoint the chairman, vice-chairman and members of the Exchange Committees, as well as fill vacancies and remove

members of the Exchange Committees. The Exchange proposes to adopt an exception to that rule. Particularly, the Exchange proposes to provide that the Nominating and Governance Committee, with the approval of the Board, shall appoint the chairman, vice-chairman and members of the Business Conduct Committee (“BCC”), as well as fill vacancies in the BCC and that the Board shall have the ability to remove any member of the BCC, at any time, with or without cause. The Nominating and Governance Committee is comprised of at least five (5) Directors and is a standing committee of CBOE’s Board of Directors. The BCC is an Exchange Committee charged with handling disciplinary matters that arise from Exchange business. The BCC additionally reviews recommendations by the Exchange’s Regulatory staff and authorizes the issuance of formal charges arising out of the matters investigated or examined by the Regulatory Services Division. Given the BCC’s responsibilities, the Exchange believes that authority relating to the composition of the BCC should rest with the Nominating and Governance Committee, rather than the CEO. Additionally, the Exchange believes that the power to remove members of the BCC should rest with the Board, rather than the CEO. This transfer of authority enhances the independence of the regulatory functions of the Exchange.

Next, the Exchange seeks to amend Rule 4.4 (Gratuities). Rule 4.4 provides that a Trading Permit Holder (“TPH”) may not give any compensation or gratuity in any one year in excess of \$50.00 to any employee of the Exchange or in excess of \$100.00 to any employee of any other TPH or of any non-TPH broker, dealer, bank or institution, without the prior consent of the employer and of the Exchange. Additionally, the Exchange’s Conflict of Interest Policy (“Policy”) currently prohibits Regulatory Services Division and Office of Enforcement employees from accepting any gift of more than nominal monetary value (e.g., a coffee mug) from any TPH or associated person of a TPH. In unique circumstances, the Policy provides that

an exception may be granted by the Division Head or, for the Division Head, by the President. The Exchange is proposing to amend Rule 4.4 to provide that a TPH may not give any compensation or gratuity of any monetary value to any Regulatory Services Division or Office of Enforcement employee.<sup>1</sup> The Exchange does not believe that its Regulatory Services Division or Office of Enforcement employees should be permitted to receive gifts or gratuities of even a nominal value from TPHs or their associated persons, in light of the responsibility of these Exchange employees for regulatory matters involving TPHs and their associated persons.

The Exchange also proposes to amend Rule 17.2 (Complaint and Investigation) to eliminate the authority of the President, other Exchange officials designated by the President, the Board, or the BCC to order an investigation of possible violations within the disciplinary jurisdiction of the Exchange and provide instead that only the Exchange's Regulatory staff, and any successor thereto, in its sole discretion shall determine whether to investigate or examine possible violations within the disciplinary jurisdiction of the Exchange. The Exchange believes providing Regulatory staff sole discretion as to what matters to investigate or examine further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well as helps to ensure that all decisions regarding resolution of any examination, investigation, or prosecution shall be made without regard to the actual or perceived business interests of the Exchange or any of TPHs. The Exchange notes that the Board, President, and BCC, along with other Exchange employees and Trading Permit Holders, will continue to have the ability to submit oral or written complaints alleging possible violations within the disciplinary jurisdiction of the Exchange. The Exchange additionally notes that the proposed rule change conforms its rules to its current practice. The Exchange also proposes to clarify that

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<sup>1</sup> The Exchange intends to make conforming changes to its Policy upon the effectiveness of this proposed rule change.

Regulatory staff has the sole discretion to determine whether to request that the BCC authorize the issuance of a statement of charges pursuant to Rule 17.4 (Charges), which will add transparency to the rules regarding Regulatory staff's role and responsibilities.

The Exchange also seeks to amend Rule 17.2 to provide that the Regulatory staff shall have the sole discretion to determine whether to request that the BCC authorize the issuance of a statement of charges pursuant to Rule 17.4. In those instances where an investigation results in the Regulatory staff finding that there are reasonable grounds to believe that a violation has been committed and a formal regulatory action (i.e., Statement of Charges) is warranted, Regulatory staff will submit a written report of its investigation to the BCC.<sup>2</sup> Additionally, the Exchange proposes to provide in those instances where an investigation results in the Regulatory staff finding that there are reasonable grounds to believe that a violation has been committed, but non-formal regulatory action (i.e., a Letter of Information, a Letter of Caution or a Staff Interview) is warranted in lieu of the issuance of a statement of charges, the Regulatory staff will have the power and authority in its sole discretion to impose such non-formal regulatory action without the submission of a written report of its investigation to the BCC. Further, the Exchange proposes to provide that in the event the Regulatory staff finds in its sole discretion that there are not reasonable grounds to believe that a violation has been committed, the Regulatory staff will close the investigation (i.e., File Without Action) without the submission of a written report of its investigation to the BCC. The Exchange believes that this proposed rule change further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well

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<sup>2</sup> Pursuant to CBOE Rule 17.10, the Regulatory Oversight and Compliance Committee will review any decision not to authorize the issuance of statements of charges that were recommended by Regulatory staff, and refer such matters to the Board of Directors for further review, as appropriate. The Board of Directors may order review of such decisions, and may affirm, reverse or modify, in whole or in part, the decision of the BCC not to authorize the issuance of statement of charges.

as makes explicit in the rules the roles and responsibilities of Regulatory staff. Finally, the Exchange proposes to add Interpretation and Policy .05 to Rule 17.2 to make clear that references to “Regulatory staff” in Chapter XVII, mean the Exchange’s employees in the Regulatory Services Division.

In addition, the Exchange seeks to make explicit in the Rules the roles and responsibilities of certain Exchange staff. First, the Exchange proposes to replace references to “Exchange” with “Regulatory staff” in Interpretation and Policies .01, .03, and .04 of Rule 17.2 to make clear that those references are to Regulatory staff, in particular. The Exchange also seeks to make similar clarifications in Rule 17.3 (Expedited Proceeding), Rule 17.4 (Charges), Rule 17.8 (Offers of Settlement), and Rule 17.10 (Review). Particularly, Rule 17.3 governs expedited proceedings, Rule 17.4 governs if and how statement of charges is to be issued, Rule 17.8 governs Offers of Settlement, and Rule 17.10 governs the review by the Board of Directors of decisions related to the disciplinary process. Each of the aforementioned rules sets forth the respective duties and responsibilities of “staff” as it relates to either expedited proceedings, statement of charges and offers of settlement. The Exchange believes however, that the term “staff” is vague and does not provide clarity as to which staff has certain roles and authorities under these rules, which historically, has been the Regulatory staff. Accordingly, the Exchange wishes to make it explicitly clear that the “staff” referred to in these rules is the Exchange’s Regulatory staff, which will provide additional clarity and reduce confusion. The Exchange notes this is a clarifying, non-substantive change. The Exchange also proposes to amend Rule 17.10(d) to correct the reference to the Regulatory Oversight and Compliance Committee.

Finally, the Exchange also proposes to amend Rule 17.50 (Imposition of Fines for Minor Rule Violations). Rule 17.50 provides that in lieu of commencing a disciplinary proceeding

pursuant to Rule 17.2, the Exchange may, in certain instances, impose a fine on a TPH or associated person of a TPH with respect to certain rule violations. More specifically, subparagraph (c) of Rule 17.50 provides that any person against whom a fine is imposed pursuant to certain subsections of Rule 17.50 (e.g., violation of position and exercise limit rules or Locked or Crossed Market violations) may contest the Exchange's determination by filing a written answer and have the matter become subject to the review of the BCC. Additionally, the filing may request a hearing, if desired, which would be subject to Rule 17.6, which rule governs hearings before the BCC. Rule 17.50(c) also provides that for violations of trading conduct and decorum policies in particular, a person may only contest the determination to the BCC if the fine exceeds \$2,500. Pursuant to subparagraph (d) of Rule 17.50, if the fine for violations of trading conduct and decorum policies does not exceed \$2,500, the individual may still contest the Exchange's determination, but the matter would become subject to the review of the Appeals Committee, rather than the BCC and, if requested, any hearing would consequently be subject to the hearing procedures set forth in Chapter 19 (Hearings and Review). Similarly, fines imposed for failure to submit trade data on trade date, regardless of the amount, may be contested but will also become subject to the review of the Appeals Committee, instead of the BCC. Moreover, Interpretation and Policy .04 provides that the BCC may consolidate into one hearing the review of (i) a fine imposed for violations of trade conduct and decorum policies that exceeds \$2,500 and (ii) a fine imposed for violations of trade conduct and decorum policies that does not exceed \$2,500, so long as the alleged violations involve the same or related transaction or occurrence and the review is not based on written submissions. The Exchange proposes to eliminate the distinction between the type of violations set forth in Rule 17.50 by eliminating subparagraph (d) of Rule 17.50 in its entirety and provide instead that all violations set forth in paragraph (g) of

Rule 17.50 may be contested to the BCC and, if requested, subject to the hearing procedures of Rule 17.6. Given the BCC's role and responsibilities noted above, the Exchange believes that the BCC is the appropriate committee to review and/or hear contests to fines imposed due to non-compliance with certain Exchange rules. Particularly, the Exchange believes the BCC should review and/or hear all contests to fines imposed pursuant to section (g) of Rule 17.50 in its entirety, including violations for trade conduct and decorum policies and failure to submit trade data on trade date. The proposed change also provides consistency and certainty as to how all contests to fines imposed pursuant to section (g) are handled.

Lastly, the Exchange proposes to delete language in subparagraph (c)(3) of Rule 17.50. More specifically, Rule 17.50(c)(3) currently provides that among others, any member of the Board may require a review by the Board of any determination made by the BCC under this rule. The Exchange proposes to eliminate the language "any member of" to provide that an individual Board member cannot alone require a review, but rather the request for a review must be a Board action. The Exchange believes that it is appropriate for the Board to determine whether to request review of a determination of the BCC under Rule 17.50, as opposed to an individual Board member, and notes that such change is consistent with Rule 17.10 relating to the Board's authority to review decisions by the BCC made pursuant to Rules 17.7 and 17.9.

(b) Statutory Basis

The Exchange believes the proposed rule changes are consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>3</sup> Specifically, the

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<sup>3</sup> 15 U.S.C. 78f(b).

Exchange believes the proposed rule changes are consistent with the Section 6(b)(5)<sup>4</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating 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 Exchange also believes the proposed rule changes are consistent with the Section 6(b)(7)<sup>5</sup> requirements that the rules of an exchange provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof.

In particular, the Exchange believes that the elimination of: (i) the CEO's authority relating to the composition of the BCC and (ii) the President, (or Exchange Official designated by the President), the Board, and BCC's authority to order the investigation of a possible violation within the disciplinary jurisdiction of the Exchange aligns the CBOE Rules with the Exchange's current practices and provides for further separation of those responsible for the business activities of the Exchange from the decision-making structure over the regulatory process. This separation enhances the Exchange's disciplinary and regulatory process by furthering the independence of its regulatory process and reducing a potential conflict of interest, as well as an appearance of inappropriate influence, thereby ensuring an effective and fair

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<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78f(b)(7).

disciplinary process and promoting just and equitable principles of trade and protecting investors and the public interest investors and public interest.

Additionally, the Exchange believes the proposed rule change to Rule 4.4 further enhances the independence of the Regulatory Services Division and Office of Enforcement and eliminates a potential conflict of interest, as well as an appearance of influence, thereby promoting an effective and fair disciplinary process and enhancing the protection of investors and the public interest.

The Exchange also believes that clarifying the CBOE Rules to explicitly state that Regulatory staff has sole discretion as to what matters to investigate or examine further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well as helps to ensure that all decisions regarding resolution of any examination, investigation, or prosecution shall be made without regard to the actual or perceived business interests of the Exchange or any of TPHs, thereby enhancing the protection of investors and the public interest. Additionally, the Exchange believes that providing Regulatory staff sole discretion to (i) impose non-formal regulatory action without the submission of a written report of its investigation to the BCC in those instances where an investigation results in the Regulatory staff finding that there are reasonable grounds to believe that a violation has been committed or (ii) close an investigation without submission of a written report of its investigation to the BCC where Regulatory staff finds that there are not reasonable grounds to believe that a violation has been committed, further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well as makes explicit in the rules the roles and responsibilities of Regulatory staff.

The Exchange also believes that replacing vague references to “Exchange” and “Staff” with “Regulatory staff,” in Chapter 17 makes it explicitly clear which staff has certain roles and responsibilities delegated under these rules, thereby eliminating potential confusion.

Finally, the Exchange believes that given the BCC’s charged role and responsibilities, the BCC is the appropriate committee to review and/or hear contests to fines imposed pursuant to section (g) of Rule 17.50 in its entirety, including violations for trade conduct and decorum policies and failure to submit trade data on trade date. The Exchange believes this proposed rule change also provides consistency as to how contests to fines imposed pursuant to section (g) of Rule 17.50 are handled.

**Item 4. 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. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it applies to all TPHs. The Exchange does not believe the proposed rule changes will impose any burden on intermarket competition as it will merely enhance the independence of its regulatory decision-making and eliminate gratuities from TPHs to employees of the Regulatory Services Division or Office of Enforcement that might appear to undermine that independence.

**Item 5. 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 proposed rule change.

**Item 6. Extension of Time Period for Commission Action**

Not applicable.

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)<sup>6</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

(b) The Exchange asserts that 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 after its filing date, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange also provided the Commission with written notice of its intent to file the proposal, along with a brief description and text of the proposal, prior to the date of the filing of the proposed rule change as required by Rule 19b-4(f)(6).

For the foregoing reasons, the Exchange believes the rule filing qualifies for expedited effectiveness as a “non-controversial” rule change under Rule 19b-4(f)(6) of the Act.

(c) Not applicable.

(d) Not applicable.

**Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is not based on a rule either of another self-regulatory organization or of the Commission.

**Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

**Item 10.      Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**Item 11.      Exhibits**

Exhibit 1.      Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5.      Proposed rule text.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
 (Release No. 34- ; File No. SR-CBOE-2014-001)

Dated: \_\_\_\_\_

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule to Amend CBOE's Rules to Enhance the Independence and Integrity of the Regulatory Functions of the Exchange

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 \_\_\_\_\_, 2014, the Chicago Board Options Exchange, Incorporated (the "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 Act<sup>3</sup> and Rule 19b-4(f)(6) 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**

CBOE proposes to amend its rules to enhance the independence and integrity of the regulatory functions of the Exchange. The text of the proposed rule change is available on the Exchange's Web site <http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission.

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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)(6).

## **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. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

#### **1. Purpose**

The Exchange proposes to amend certain rules to enhance the independence and integrity of the regulatory functions of the Exchange. Specifically, the Exchange seeks to amend Rule 2.1 (Committees of the Exchange), Rule 4.4 (Gratuities), Rule 17.2 (Complaint and Investigation), Rule 17.3 (Expedited Proceeding), Rule 17.4 (Charges), Rule 17.8 (Offers of Settlement) and Rule 17.50 (Imposition of Fines for Minor Rule Violations).

First, the Exchange proposes to amend Rule 2.1 (Committees of the Exchange). Rule 2.1 currently provides that the Chief Executive Officer ("CEO") shall appoint the chairman, vice-chairman and members of the Exchange Committees, as well as fill vacancies and remove members of the Exchange Committees. The Exchange proposes to adopt an exception to that rule. Particularly, the Exchange proposes to provide that the Nominating and Governance Committee, with the approval of the Board, shall appoint the chairman, vice-chairman and members of the Business Conduct Committee ("BCC"), as well as fill vacancies in the BCC and that the Board shall have the ability to remove

any member of the BCC, at any time, with or without cause. The Nominating and Governance Committee is comprised of at least five (5) Directors and is a standing committee of CBOE's Board of Directors. The BCC is an Exchange Committee charged with handling disciplinary matters that arise from Exchange business. The BCC additionally reviews recommendations by the Exchange's Regulatory staff and authorizes the issuance of formal charges arising out of the matters investigated or examined by the Regulatory Services Division. Given the BCC's responsibilities, the Exchange believes that authority relating to the composition of the BCC should rest with the Nominating and Governance Committee, rather than the CEO. Additionally, the Exchange believes that the power to remove members of the BCC should rest with the Board, rather than the CEO. This transfer of authority enhances the independence of the regulatory functions of the Exchange.

Next, the Exchange seeks to amend Rule 4.4 (Gratuities). Rule 4.4 provides that a Trading Permit Holder ("TPH") may not give any compensation or gratuity in any one year in excess of \$50.00 to any employee of the Exchange or in excess of \$100.00 to any employee of any other TPH or of any non-TPH broker, dealer, bank or institution, without the prior consent of the employer and of the Exchange. Additionally, the Exchange's Conflict of Interest Policy ("Policy") currently prohibits Regulatory Services Division and Office of Enforcement employees from accepting any gift of more than nominal monetary value (e.g., a coffee mug) from any TPH or associated person of a TPH. In unique circumstances, the Policy provides that an exception may be granted by the Division Head or, for the Division Head, by the President. The Exchange is proposing to amend Rule 4.4 to provide that a TPH may not give any compensation or

gratuity of any monetary value to any Regulatory Services Division or Office of Enforcement employee.<sup>5</sup> The Exchange does not believe that its Regulatory Services Division or Office of Enforcement employees should be permitted to receive gifts or gratuities of even a nominal value from TPHs or their associated persons, in light of the responsibility of these Exchange employees for regulatory matters involving TPHs and their associated persons.

The Exchange also proposes to amend Rule 17.2 (Complaint and Investigation) to eliminate the authority of the President, other Exchange officials designated by the President, the Board, or the BCC to order an investigation of possible violations within the disciplinary jurisdiction of the Exchange and provide instead that only the Exchange's Regulatory staff, and any successor thereto, in its sole discretion shall determine whether to investigate or examine possible violations within the disciplinary jurisdiction of the Exchange. The Exchange believes providing Regulatory staff sole discretion as to what matters to investigate or examine further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well as helps to ensure that all decisions regarding resolution of any examination, investigation, or prosecution shall be made without regard to the actual or perceived business interests of the Exchange or any of TPHs. The Exchange notes that the Board, President, and BCC, along with other Exchange employees and Trading Permit Holders, will continue to have the ability to submit oral or written complaints alleging possible violations within the disciplinary jurisdiction of the Exchange. The Exchange additionally notes that the proposed rule change conforms its rules to its current practice. The Exchange also proposes to clarify

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<sup>5</sup> The Exchange intends to make conforming changes to its Policy upon the effectiveness of this proposed rule change.

that Regulatory staff has the sole discretion to determine whether to request that the BCC authorize the issuance of a statement of charges pursuant to Rule 17.4 (Charges), which will add transparency to the rules regarding Regulatory staff's role and responsibilities.

The Exchange also seeks to amend Rule 17.2 to provide that the Regulatory staff shall have the sole discretion to determine whether to request that the BCC authorize the issuance of a statement of charges pursuant to Rule 17.4. In those instances where an investigation results in the Regulatory staff finding that there are reasonable grounds to believe that a violation has been committed and a formal regulatory action (i.e., Statement of Charges) is warranted, Regulatory staff will submit a written report of its investigation to the BCC.<sup>6</sup> Additionally, the Exchange proposes to provide in those instances where an investigation results in the Regulatory staff finding that there are reasonable grounds to believe that a violation has been committed, but non-formal regulatory action (i.e., a Letter of Information, a Letter of Caution or a Staff Interview) is warranted in lieu of the issuance of a statement of charges, the Regulatory staff will have the power and authority in its sole discretion to impose such non-formal regulatory action without the submission of a written report of its investigation to the BCC. Further, the Exchange proposes to provide that in the event the Regulatory staff finds in its sole discretion that there are not reasonable grounds to believe that a violation has been committed, the Regulatory staff will close the investigation (i.e., File Without Action) without the submission of a written report of its investigation to the BCC. The Exchange

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<sup>6</sup> Pursuant to CBOE Rule 17.10, the Regulatory Oversight and Compliance Committee will review any decision not to authorize the issuance of statements of charges that were recommended by Regulatory staff, and refer such matters to the Board of Directors for further review, as appropriate. The Board of Directors may order review of such decisions, and may affirm, reverse or modify, in whole or in part, the decision of the BCC not to authorize the issuance of statement of charges.

believes that this proposed rule change further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well as makes explicit in the rules the roles and responsibilities of Regulatory staff. Finally, the Exchange proposes to add Interpretation and Policy .05 to Rule 17.2 to make clear that references to "Regulatory staff" in Chapter XVII, mean the Exchange's employees in the Regulatory Services Division.

In addition, the Exchange seeks to make explicit in the Rules the roles and responsibilities of certain Exchange staff. First, the Exchange proposes to replace references to "Exchange" with "Regulatory staff" in Interpretation and Policies .01, .03, and .04 of Rule 17.2 to make clear that those references are to Regulatory staff, in particular. The Exchange also seeks to make similar clarifications in Rule 17.3 (Expedited Proceeding), Rule 17.4 (Charges), Rule 17.8 (Offers of Settlement), and Rule 17.10 (Review). Particularly, Rule 17.3 governs expedited proceedings, Rule 17.4 governs if and how statement of charges is to be issued, Rule 17.8 governs Offers of Settlement, and Rule 17.10 governs the review by the Board of Directors of decisions related to the disciplinary process. Each of the aforementioned rules sets forth the respective duties and responsibilities of "staff" as it relates to either expedited proceedings, statement of charges and offers of settlement. The Exchange believes however, that the term "staff" is vague and does not provide clarity as to which staff has certain roles and authorities under these rules, which historically, has been the Regulatory staff. Accordingly, the Exchange wishes to make it explicitly clear that the "staff" referred to in these rules is the Exchange's Regulatory staff, which will provide additional clarity and reduce confusion. The Exchange notes this is a clarifying, non-

substantive change. The Exchange also proposes to amend Rule 17.10(d) to correct the reference to the Regulatory Oversight and Compliance Committee.

Finally, the Exchange also proposes to amend Rule 17.50 (Imposition of Fines for Minor Rule Violations). Rule 17.50 provides that in lieu of commencing a disciplinary proceeding pursuant to Rule 17.2, the Exchange may, in certain instances, impose a fine on a TPH or associated person of a TPH with respect to certain rule violations. More specifically, subparagraph (c) of Rule 17.50 provides that any person against whom a fine is imposed pursuant to certain subsections of Rule 17.50 (e.g., violation of position and exercise limit rules or Locked or Crossed Market violations) may contest the Exchange's determination by filing a written answer and have the matter become subject to the review of the BCC. Additionally, the filing may request a hearing, if desired, which would be subject to Rule 17.6, which rule governs hearings before the BCC. Rule 17.50(c) also provides that for violations of trading conduct and decorum policies in particular, a person may only contest the determination to the BCC if the fine exceeds \$2,500. Pursuant to subparagraph (d) of Rule 17.50, if the fine for violations of trading conduct and decorum policies does not exceed \$2,500, the individual may still contest the Exchange's determination, but the matter would become subject to the review of the Appeals Committee, rather than the BCC and, if requested, any hearing would consequently be subject to the hearing procedures set forth in Chapter 19 (Hearings and Review). Similarly, fines imposed for failure to submit trade data on trade date, regardless of the amount, may be contested but will also become subject to the review of the Appeals Committee, instead of the BCC. Moreover, Interpretation and Policy .04 provides that the BCC may consolidate into one hearing the review of (i) a fine imposed

for violations of trade conduct and decorum policies that exceeds \$2,500 and (i) a fine imposed for violations of trade conduct and decorum policies that does not exceed \$2,500, so long as the alleged violations involve the same or related transaction or occurrence and the review is not based on written submissions. The Exchange proposes to eliminate the distinction between the type of violations set forth in Rule 17.50 by eliminating subparagraph (d) of Rule 17.50 in its entirety and provide instead that all violations set forth in paragraph (g) of Rule 17.50 may be contested to the BCC and, if requested, subject to the hearing procedures of Rule 17.6. Given the BCC's role and responsibilities noted above, the Exchange believes that the BCC is the appropriate committee to review and/or hear contests to fines imposed due to non-compliance with certain Exchange rules. Particularly, the Exchange believes the BCC should review and/or hear all contests to fines imposed pursuant to section (g) of Rule 17.50 in its entirety, including violations for trade conduct and decorum policies and failure to submit trade data on trade date. The proposed change also provides consistency and certainty as to how all contests to fines imposed pursuant to section (g) are handled.

Lastly, the Exchange proposes to delete language in subparagraph (c)(3) of Rule 17.50. More specifically, Rule 17.50(c)(3) currently provides that among others, any member of the Board may require a review by the Board of any determination made by the BCC under this rule. The Exchange proposes to eliminate the language "any member of" to provide that an individual Board member cannot alone require a review, but rather the request for a review must be a Board action. The Exchange believes that it is appropriate for the Board to determine whether to request review of a determination of the BCC under Rule 17.50, as opposed to an individual Board member, and notes that

such change is consistent with Rule 17.10 relating to the Board's authority to review decisions by the BCC made pursuant to Rules 17.7 and 17.9.

## **2. Statutory Basis**

The Exchange believes the proposed rule changes are consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the Exchange believes the proposed rule changes are consistent with the Section 6(b)(5)<sup>8</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating 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 Exchange also believes the proposed rule changes are consistent with the Section 6(b)(7)<sup>9</sup> requirements that the rules of an exchange provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof.

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78f(b)(7).

In particular, the Exchange believes that the elimination of: (i) the CEO's authority relating to the composition of the BCC and (ii) the President, (or Exchange Official designated by the President), the Board, and BCC's authority to order the investigation of a possible violation within the disciplinary jurisdiction of the Exchange aligns the CBOE Rules with the Exchange's current practices and provides for further separation of those responsible for the business activities of the Exchange from the decision-making structure over the regulatory process. This separation enhances the Exchange's disciplinary and regulatory process by furthering the independence of its regulatory process and reducing a potential conflict of interest, as well as an appearance of inappropriate influence, thereby ensuring an effective and fair disciplinary process and promoting just and equitable principles of trade and protecting investors and the public interest investors and public interest.

Additionally, the Exchange believes the proposed rule change to Rule 4.4 further enhances the independence of the Regulatory Services Division and Office of Enforcement and eliminates a potential conflict of interest, as well as an appearance of influence, thereby promoting an effective and fair disciplinary process and enhancing the protection of investors and the public interest.

The Exchange also believes that clarifying the CBOE Rules to explicitly state that Regulatory staff has sole discretion as to what matters to investigate or examine further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well as helps to ensure that all decisions regarding resolution of any examination, investigation, or prosecution shall be made without regard to the actual or perceived business interests of the Exchange or any of TPHs, thereby enhancing the

protection of investors and the public interest. Additionally, the Exchange believes that providing Regulatory staff sole discretion to (i) impose non-formal regulatory action without the submission of a written report of its investigation to the BCC in those instances where an investigation results in the Regulatory staff finding that there are reasonable grounds to believe that a violation has been committed or (ii) close an investigation without submission of a written report of its investigation to the BCC where Regulatory staff finds that there are not reasonable grounds to believe that a violation has been committed, further supports and provides for the autonomy and independence of the Exchanges' regulatory functions as well as makes explicit in the rules the roles and responsibilities of Regulatory staff.

The Exchange also believes that replacing vague references to "Exchange" and "Staff" with "Regulatory staff," in Chapter 17 makes it explicitly clear which staff has certain roles and responsibilities delegated under these rules, thereby eliminating potential confusion.

Finally, the Exchange believes that given the BCC's charged role and responsibilities, the BCC is the appropriate committee to review and/or hear contests to fines imposed pursuant to section (g) of Rule 17.50 in its entirety, including violations for trade conduct and decorum policies and failure to submit trade data on trade date. The Exchange believes this proposed rule change also provides consistency as to how contests to fines imposed pursuant to section (g) of Rule 17.50 are handled.

**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.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it applies to all TPHs. The Exchange does not believe the proposed rule changes will impose any burden on intermarket competition as it will merely enhance the independence of its regulatory decision-making and eliminate gratuities from TPHs to employees of the Regulatory Services Division or Office of Enforcement that might appear to undermine that independence.

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**

Because the foregoing proposed 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 Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> 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

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2014-001 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-CBOE-2014-001. 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

website viewing and printing 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-2014-001 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>12</sup>

Dated: \_\_\_\_\_

Secretary

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

EXHIBIT 5(additions are underlined; deletions are [bracketed])

\* \* \* \* \*

**Chicago Board Options Exchange, Incorporated  
Rules**

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**Rule 2.1. Committees of the Exchange**

(a) *Establishment of Exchange Committees.* In addition to committees specifically provided for in the Bylaws and the Rules, there shall be the following committees that are not solely composed of directors from the Board of Directors of the Exchange ("Exchange committees"): Appeals, Arbitration, Business Conduct, and such other Exchange committees as may be established in accordance with the Bylaws and Rules. The Chief Executive Officer or his or her designee, with the approval of the Board, shall appoint the chairmen, vice chairmen (if any), and members of all Exchange committees except for the Business Conduct Committee, as well as fill any vacancies on those committees, unless a different manner of appointment is provided for any Exchange committee under the Bylaws, the Rules or a resolution of the Board establishing that committee. The Nominating and Governance Committee, with the approval of the Board, shall appoint the chairman, vice chairman (if any), and members of the Business Conduct Committee, as well as fill any vacancies on the Business Conduct Committee. The term of an Exchange committee member's appointment shall continue until the first regular meeting of the Board of Directors of the next calendar year and until that committee member's successor is appointed or that committee member's earlier death, resignation or removal. In selecting Exchange committee members, consideration shall be given to continuity and to having, where appropriate, a cross section of the Trading Permit Holders represented on each Exchange committee. Except as may be otherwise provided in the Bylaws or the Rules, the Chief Executive Officer or his or her designee, with the approval of the Board, may, at any time, with or without cause, remove any member of any Exchange committee, except for the Business Conduct Committee. The Board, may, at any time, with or without cause, remove any member of the Business Conduct Committee.

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**Rule 4.4. Gratuities**

(a) No Trading Permit Holder or associated person of a Trading Permit Holder shall give any compensation or gratuity in any one year in excess of \$50.00 to any employee of the Exchange or in excess of \$100.00 to any employee of any other Trading Permit Holder or of any non-Trading Permit Holder broker, dealer, bank or institution, without the prior consent of the employer and of the Exchange.

(b) No Trading Permit Holder or associated person of a Trading Permit Holder shall give any compensation or gratuity of any monetary value to any Regulatory Services Division or Office of Enforcement employee of the Exchange (i.e., Regulatory staff).

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**Rule 17.2. Complaint and Investigation**

(a) *Initiation of Investigation.* The Exchange's Regulatory staff, and any successor thereto, shall investigate or examine possible violations within the disciplinary jurisdiction of the Exchange [upon order of the Board, the Business Conduct Committee, the President or other Exchange officials designated by the President, or] whenever the Regulatory staff determines in its sole discretion there is a reasonable basis for [the Exchange] it to do so. The [Exchange]Regulatory staff shall also determine in its discretion whether to investigate or examine any complaint it receives alleging [investigate] possible violations within the disciplinary jurisdiction of the Exchange [upon receipt of a complaint, written or oral, alleging such violations made by a Trading Permit Holder or by any other person alleging injury as a result of such violations (the "Complainant")], provided such complaint specifies in reasonable detail the facts constituting the violation. Complaints, written or oral, may be submitted by any person or entity, including the Board, Exchange employees, and Trading Permit Holders (the "Complainant").

(b) *Requirement to Furnish Information.* Each Trading Permit Holder and person associated with a Trading Permit Holder shall be obligated upon request by the Exchange to appear and testify, and to respond in writing to interrogatories and furnish documentary materials and other information requested by the Exchange in connection with (i) an investigation initiated pursuant to paragraph (a) of this Rule, (ii) a hearing or appeal conducted pursuant to this Chapter or preparation by the Exchange in anticipation of such a hearing or appeal, or (iii) an Exchange inquiry resulting from an agreement entered into by the Exchange pursuant to Rule 15.9. No Trading Permit Holder or person associated with a Trading Permit Holder shall impede or delay an Exchange investigation or proceeding conducted pursuant to this Chapter or an Exchange inquiry pursuant to Rule 15.9 nor refuse to comply with a request made by the Exchange pursuant to this paragraph. A Trading Permit Holder or person associated with a Trading Permit Holder is entitled to be represented by counsel during any such Exchange investigation, proceeding or inquiry.

(c) *Report.* Regulatory staff shall have the sole discretion to determine whether to request that the Business Conduct Committee authorize the issuance of a statement of charges pursuant to Rule 17.4. In every instance where an investigation results in the Regulatory staff [a] finding that there are reasonable grounds to believe that a violation has been committed and a formal regulatory action (i.e., a Statement of Charges) is warranted, the Exchange's Regulatory staff [Staff] shall submit a written report of its investigation to the Business Conduct Committee. In those instances where an investigation results in the Regulatory staff finding that there are reasonable grounds to believe that a violation has been committed but non-formal regulatory action (i.e., a Letter of Information, a Letter of Caution or a Staff Interview) is warranted in lieu of the issuance of a statement of charges, the Regulatory staff may in its sole discretion determine to impose such non-formal regulatory action without the submission of a written report of its investigation to the Business Conduct Committee. In the event the Regulatory staff finds that there are not reasonable grounds to believe that a violation has been committed, the Regulatory staff may in its sole discretion determine to close the investigation (i.e., File Without Action) without the submission of a written report of its investigation to the Business Conduct Committee.

(d) *Notice, Statement and Access.* Prior to submitting its report, the Regulatory staff shall notify the person(s) who is the subject of the report (hereinafter Subject) of the general nature of the allegations and of the specific provisions of the Exchange Act, rules and regulations promulgated thereunder, or Bylaws or rules of the Exchange or any interpretation thereof or any resolution of the Board regulating the conduct of business on the Exchange, that appear to have been violated. Except when the Committee determines that expeditious action is required, a Subject shall have 15 days from the date of the notification described above to submit a written statement to the Committee concerning why no disciplinary action should be taken. To assist a Subject in preparing such a written statement, he shall have access to any documents and other materials in the investigative file of the Exchange that were furnished by him or his agents.

*. . . Interpretations and Policies:*

**.01** Failure to furnish testimony, documentary evidence or other information requested by the [Exchange] Regulatory staff in the course of an Exchange inquiry, investigation, hearing or appeal conducted pursuant to this Chapter or in the course of preparation by the [Exchange] Regulatory staff in anticipation of such a hearing or appeal on the date or within the time period the Exchange specifies shall be deemed to be a violation of Rule 17.2.

**.02** In lieu of, or in addition to, submitting a written statement concerning why no disciplinary action should be taken as permitted by paragraph (d) of this Rule, the Subject may submit a statement in the form of a videotaped response. Except when the Committee determines that expeditious action is required, the Subject shall have 15 days from the date of the notification described in paragraph (d) to submit the videotaped response. The Exchange will establish standards concerning the length and format of such videotaped responses.

**.03** To assist the [Exchange] Regulatory staff in investigating possible violations within [its] the Exchange's disciplinary jurisdiction, Complainants should sign written complaints or identify themselves when making oral complaints pursuant to paragraph (a) of this Rule, and also identify the specific statutes, Bylaws, rules, interpretations or resolutions that allegedly were violated.

**.04** In addition to the existing obligation under Exchange rules regarding the production of books and records, each TPH or TPH organization shall furnish upon request, in the manner and standard electronic format prescribed by the Exchange, data concerning orders, transactions, and positions, including related hedges and offsets, in relation to a regulatory review conducted by the [Exchange] Regulatory staff.

**.05** References to "Regulatory staff" in Chapter XVII mean the Exchange's employees in the Regulatory Services Division.

### **Rule 17.3. Expedited Proceeding**

Upon receipt of the notification required by Rule 17.2(d), a Subject may seek to dispose of the matter through a letter of consent signed by the Subject. If a Subject desires to attempt to dispose of the matter through a letter of consent, the Subject must submit to the Exchange's Regulatory staff within 15 days from the date of the notification required by Rule 17.2(d) a written notice electing to proceed in an expedited manner pursuant to this Rule 17.3. The Subject must then endeavor to reach agreement with the Regulatory staff upon a letter of consent which is acceptable to the Regulatory staff and which sets forth a stipulation of facts and findings concerning the Subject's conduct, the violation(s) committed by the Subject and the sanction(s)

therefor. The matter can only be disposed of through a letter of consent if the Regulatory staff and the Subject are able to agree upon terms of a letter of consent which are acceptable to the staff and the letter is signed by the Subject. At any point in the negotiations regarding a letter of consent, either the Regulatory staff may deliver to the Subject or the Subject may deliver to the staff a written declaration of an end to the negotiations. On delivery of such a declaration the Subject will then have 15 days to submit a written statement pursuant to Rule 17.2(d) and thereafter the Regulatory staff may bring the matter to the Business Conduct Committee for appropriate action. In the event that the Subject and the Regulatory staff are able to agree upon a letter of consent which is acceptable to the Regulatory staff, the Regulatory staff shall submit the letter to the Business Conduct Committee. If the letter of consent is accepted by the Business Conduct Committee, it may adopt the letter as its decision and shall take no further action against the Subject respecting the matters that are the subject of the letter. If the letter of consent is rejected by the Business Conduct Committee, the matter shall proceed as though the letter had not been submitted. The Business Conduct Committee's decision to accept or reject a letter of consent shall be final, and a Subject may not seek review thereof.

#### **Rule 17.4. Charges**

(a) *Determination Not to Initiate Charges.* Whenever it shall appear to the Business Conduct Committee from the report of the Regulatory staff of the Exchange that no probable cause exists for finding a violation within the disciplinary jurisdiction of the Exchange, or whenever the Committee otherwise determines that no further action is warranted, it shall issue a written statement to that effect setting forth its reasons for such finding, which shall be sent to the Subject and the Complainant, if any.

(b) *Initiation of Charges.* Whenever it shall appear to the Business Conduct Committee from the report of the Regulatory staff of the Exchange that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange and that further proceedings are warranted, the Business Conduct Committee shall direct the Regulatory staff of the Exchange to prepare a statement of charges against the person or organization alleged to have committed a violation (the "Respondent") specifying the acts in which the Respondent is charged to have engaged and setting forth the specific provisions of the Securities Exchange Act of 1934, as amended, rules and regulations promulgated thereunder, Bylaws, rules, interpretations or resolutions of which such acts are in violation. A copy of the charges shall be served upon the Respondent in accordance with Rule 17.12. The Complainant, if any, shall be notified if further proceedings are warranted.

(c) *Access to Documents.* Provided that a Respondent has made a written request for access to documents described hereunder within 60 calendar days after a statement of charges has been served upon the Respondent in accordance with Rule 17.12, the Respondent shall have access to all documents concerning the case that are in the investigative file of the Exchange except for Regulatory staff investigation and examination reports and materials prepared by the Regulatory staff in connection with such reports or in anticipation of a disciplinary hearing. In providing such documents, the Regulatory staff may protect the identity of a Complainant.

(d) No change.

*. . . Interpretations and Policies:*

**.01** "Ex parte communication" means an oral or written communication made without notice to all parties, that is, [r]Regulatory staff and Subjects of investigations or Respondents in proceedings. A written communication is ex parte unless a copy has been previously or simultaneously delivered to all interested parties. An oral communication is ex parte unless it is made in the presence of all interested parties except those who, on adequate prior notice, declined to be present.

**.02** No change.

**.03** No person shall be deemed to violate Rule 17.4(d) if they refuse an attempted communication concerning the merits of an investigation or proceeding as soon as it becomes apparent that the communication concerns the merits. In order for this Interpretation .03 to apply, the person refusing the attempted communication must promptly notify the [Exchange] [r]Regulatory staff about the attempted communication and how the person responded to it. The [Exchange r]Regulatory staff shall memorialize this information in the regulatory record of the investigation or disciplinary proceeding.

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### **Rule 17.8. Offers of Settlement**

(a) No change.

(b) *Submission of Statement.* A Respondent may submit with an offer of settlement a written statement in support of the offer. In addition, if the Regulatory staff will not recommend acceptance of an offer of settlement before the Business Conduct Committee, a Respondent shall be notified and may appear before the Committee to make an oral statement in support of his offer. Finally, if the Business Conduct Committee rejects an offer that the Regulatory staff supports, a Respondent may appear before that Committee to make an oral statement concerning why he believes the Committee should change its decision and accept his offer. A Respondent must make a request for such an appearance within 5 days of his being notified that his offer was rejected or that Regulatory staff will not recommend acceptance.

#### **. . . Interpretations and Policies:**

**.01** (a) No change.

(b) In the event that prior to the issuance of a statement of charges against a Respondent the Respondent timely submits a written notice to the Regulatory staff in accordance with Rule 17.3 electing to proceed in an expedited manner pursuant to Rule 17.3 and subsequently the Respondent is unable to reach agreement with the Regulatory staff upon a letter of consent which is acceptable to the Regulatory staff, any number of days in excess of thirty between the date upon which the Regulatory staff receives the Respondent's notice of election to proceed in an expedited manner pursuant to Rule 17.3 and the date either the Respondent delivers to the Regulatory staff or the Regulatory staff delivers to the Respondent the written declaration of an end to the consent negotiations shall be deducted from the one hundred and twenty day period specified in Rule 17.8(a); provided, however, that in no event shall the time period in which the Respondent may properly submit offers of settlement to the Business Conduct Committee pursuant to Rule 17.8(a) be less than fourteen days commencing on the date immediately following the date of service of the statement of charges upon the Respondent.

(c) No change.

(d) The one hundred and twenty day period specified in Rule 17.8(a) (or, when applicable, such shorter period mandated by Interpretation and Policy .01(b) above) shall be tolled during the number of days in excess of thirty calendar days that it takes Regulatory staff of the Exchange to provide access in response to a Respondent's request for access to documents provided that the request for access is made pursuant to the provisions and within the time frame provided in Rule 17.4(c); provided that in the event the settlement period is shortened pursuant to paragraph (b) of this Interpretation and Policy, the settlement period shall be tolled following a request for documents to the extent necessary in order to allow the Respondent to have at least seven days after being provided with access to documents within which to submit an offer of settlement.

.02 No change.

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### **Rule 17.10 Review**

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(d) *Review of Decision Not to Initiate Charges.* Upon application made by the Regulatory Oversight and Compliance Committee within 45 days from the date the Exchange serves the Subject with notice of a decision by the Business Conduct Committee pursuant to Rule 17.4(a) not to initiate charges that have been recommended by [Exchange] Regulatory staff, the Board may order review of such decision. Such review shall be conducted in accordance with the procedures set forth in paragraph (b) as applicable.

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### **Rule 17.50. Imposition of Fines for Minor Rule Violations**

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(c)(1) Any person against whom a fine is imposed pursuant to [sub]section (g)[(1), (g)(2), (g)(3), (g)(4), (g)(5), (g)(8), (g)(9), (g)(10), (g)(11), (g)(12), (g)(13), (g)(14), (g)(15), (g)(16), (g)(17) or (g)(18)] of this Rule [and any person against whom a fine exceeding \$2,500 is imposed pursuant to subsection (g)(6) of this Rule] may contest the Exchange determination by filing with the Office of the Secretary of the Exchange, on or before the date specified pursuant to subsection (b)(iv) of this Rule, a written answer as provided in Exchange Rule 17.5, at which point the matter shall become subject to review by the Business Conduct Committee. The filing must include a request for a hearing, if a hearing is desired. Hearings will be conducted in accordance with the provisions of Exchange Rule 17.6. If a hearing is not requested, the review will be based on written submissions and will be conducted in a manner to be determined by the Business Conduct Committee.

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(3) The committee or department of the Exchange that commenced the action under this Rule, the person charged, and [any member of] the Board of Directors of the Exchange may require a review by the Board of any determination by the Business Conduct Committee under this Rule by proceeding in the manner described in Exchange Rule 17.10. For the

purposes of such an appeal by the committee or department of the Exchange that commenced the action under this Rule, such committee or department of the Exchange shall have the same rights a Respondent under Exchange Rule 17.10.

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(d) Reserved. [(1) Any person against whom a fine not exceeding \$2,500 is imposed pursuant to subsection (g)(6) of this Rule and any person against whom a fine is imposed pursuant to subsection (g)(7) of this Rule may contest the Exchange's determination by filing with the Secretary of the Exchange, on or before the date specified pursuant to subsection (b)(iv) of this Rule, a written application in accordance with the provisions of Exchange Rule 19.2(a), at which point the matter shall become subject to review by the Appeals Committee. The application must include a request for a hearing, if a hearing is desired. Except as otherwise provided herein, the procedures applicable to such an appeal shall be governed by Chapter 19. Any petitions for an extension of time in which to file an application must comply with and shall be governed by the provisions of Exchange Rule 19.2, and any such petition must be filed with the Secretary of the Exchange on or before the date specified pursuant to subsection (b)(iv) of this Rule in order to be eligible for consideration. Procedures applicable to all other time limit extensions shall be governed by Exchange Rule 19.6(b). Hearings will be conducted in accordance with the provisions of Exchange Rules 19.3 and 19.4. If a hearing is not requested, the review will be based on written submissions and will be conducted in a manner to be determined by the Appeals Committee.

(2) If after a hearing or review based on written submissions pursuant to subsection (d)(1) of this Rule the Appeals Committee determines that the conduct serving as the basis for the action under review is in violation of the rule charged, the Committee (i) may impose any one or more of the disciplinary sanctions authorized by the Exchange's Bylaws and Rules and (ii) shall impose a forum fee against the person charged in the amount of one hundred dollars (\$100) if the determination was reached without a hearing, or in the amount of three hundred dollars (\$300) if a hearing was conducted. However, notwithstanding the foregoing, in the event that the Appeals Committee determines that the person charged is guilty of one or more rule violations and the sole disciplinary sanction imposed by the Committee for such rule violation(s) is a fine which is less than the total fine initially imposed by the Exchange pursuant to this Rule, the Committee shall have the discretion to waive the imposition of a forum fee.

(3) The committee or department of the Exchange that commenced the action under this Rule, the person charged, the President of the Exchange, and the Board of Directors of the Exchange may require a review by the Board of any determination by the Appeals Committee under this Rule by proceeding in the manner described in Exchange Rule 19.5.

(4) In the event that a fine imposed pursuant to this Rule is subsequently upheld by the Appeals Committee or, if applicable, on appeal, such fine, plus all interest that has accrued thereon since the date specified pursuant to subsection (b)(iv) of this Rule, and any forum fee imposed hereunder, shall be immediately due and payable.]

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*. . . Interpretations and Policies:*

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[.04 The BCC may consolidate into one hearing (i) the review of any fine imposed pursuant to Rule 17.50(g)(6) that exceeds \$2500 (which would be subject to a hearing under Rule 17.50(c)) and (ii) the review of any fine imposed pursuant to Rule 17.50(g)(6) that does not exceed \$2500 (which would otherwise be subject to a hearing under Rule 17.50(d)), if the alleged violations that are the subject of the fines involve the same or a related transaction or occurrence. In case of a consolidation, the procedures governing the disposition of the matter shall be those set forth in Rule 17.50(c). If the review of a fine is to be based upon written submissions then that review may not be consolidated. The BCC may consolidate the review of such matters on its own motion or upon request from the Exchange or the subject of one of the fines. In the event that the BCC determines to consolidate the review of such matters or receives a request to consolidate such matters, the BCC will give all parties to the matters that are subject to possible consolidation a reasonable opportunity to support the consolidation or object to the consolidation in writing. In determining whether to consolidate the review of such matters, the BCC shall take into account such factors as it deems relevant including, but not limited to, the staff resources and time that may be saved by the consolidation and whether the consolidation could potentially be prejudicial to the parties involved.]

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