necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. With regards to RTBs, these agreements are especially important to facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.[23]

In order to address the above noted concerns and to comply with Commentary .03 of the SRO Rules, the SROs note that the Commission has entered into an MOU and the CVM. The Amex represents that it has as SSA with the BOVESPA. The CBOE also represents that it has an SSA with the BOVESPA. If the MOU ceases to exist, each SRO represents that it will contact the Commission immediately in order to enable the Commission to determine what measures should be taken with regards to the listing and trading of options on RTBs.[24] The Commission believes that the combination of the SSAs and the MOU satisfy the requirement of Commentary .03 of the SRO Rules. The Commission also notes that the SROs have relied on the SSAs and the MOU to trade option overlying Telebras ADSs.

For the reasons described above, the Commission finds good cause to approve the proposed rule changes prior to the thirtieth day after publication of notice of filing thereof in the **Federal Register**. The Commission believes that the proposals will benefit investors that have invested in TRBs and who seek to hedge their exposure to the Brazilian telecommunications market through a single overlying options product. In addition, the Commission believes that any regulatory issues that are posed by options on RTBs have been addressed adequately by the SROs in a manner consistent with past Commission action.[25]

Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2)[26] of the Act, to find that good cause exists to approve the proposed rule changes on an accelerated basis.

IV. Solicitation of Comments

Interested person are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will be available for inspection and copying at the principal office of the SROs. All submission should refer to File Nos. SR–Amex–98–41, SR–CBOE–98–45 and SR–Phlx–98–49 and should be submitted by November 24, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (SR–Amex–98–41, SR–CBOE–98–45 and SR–Phlx–98–49) are approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–29340 Filed 11–2–98; 8:45 am]

BILLING CODE 8010–01–M

Exchange Act Release No. 31529 (November 27, 1992).

[23] An MOU provides a framework for mutual assistance in investigatory and regulatory matters. Generally, the Commission has permitted an SRO to rely on an MOU in the absence of an SSA only if the SRO receives an assurance from the Commission that such an MOU can be relied on for surveillance purposes and includes, at a minimum, the transaction, clearing and customer information necessary to conduct an investigation. *See* Securities Exchange Act Release No. 35184 (December 30, 1994) 60 FR 2616 (January 10, 1995). In addition, an SRO should nonetheless endeavor to develop SSAs with the foreign exchange that trades the underlying securities even if the SRO receives prior Commission approval to rely on an MOU in place of an SSA.

[24] The Commission notes that although the Phlx does not have an SSA with the BOVESPA, the MOU alone satisfies the requirement of Commentary .03 of the SRO Rules. Furthermore, the Commission believes that in the case of the Amex and the CBOE, if the SAAs cease to exist but the MOU is still effective, the Amex and the CBOE are not required to notify the Commission.

[25] *Supra* note 6.

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40607; File No. SR–CBOE–98–22]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Floor Official Fining Authority

October 27, 1998.

I. Introduction

On May 28, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to 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 consolidating most floor official fining authority governed by Exchange Rule 17.50, Imposition of Fines for Minor Rule Violations (''Summary Fine Rule''), under one regulatory circular. The CBOE filed Amendment No. 1 to its proposal with the Commission on July 8, 1998,[3] Amendment No. 2 on August 27, 1998,[4] and Amendment No. 3 on September 9, 1998.[5]

On September 21, 1998, the proposed rule change and amendments were published for comment in the **Federal Register**.[6] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The Exchange proposes to modify Exchange Rule 6.20, Admission to and Conduct on the Trading Floor, and certain other Exchange Rules to consolidate most floor official fining authority governed by Exchange Rule 17.50, Imposition of Fines for Minor Rule Violations (''Summary Fine Rule''), under one regulatory circular.[7] The CBOE also proposes to modify its

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Gail Marshall-Smith, Special Counsel, Division of Market Regulation (''Division''), Commission, dated July 7, 1998 (''Amendment No. 1'').

[4] *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Terri L. Evans, Attorney, Division, Commission, dated August 26, 1998 (''Amendment No. 2'').

[5] *See* Letter from Debora E. Barnes, Senior Attorney, CBOE, to Terri L. Evans, Attorney, Division, Commission, dated September 8, 1998 (''Amendment No. 3'').

[6] Exchange Act Release No. 40440 (Sept. 14, 1998) 63 FR 50265.

[7] The Exchange has issued separate circulars setting forth fine schedules for violations of Rule 8.51 with respect to OEX and DJX options. These circulars were approved by the Commission in SR–CBOE 96–31 and SR–CBOE 97–45.

regulatory circular pertaining to the administration and enforcement of paragraph (g)(6) of the Summary Fine Rule, as it relates to minor rule violations applicable to trading conduct and decorum policies (''Trading Conduct and Decorum Circular'').

The purpose of the CBOE's summary fine plan is to provide a mechanism whereby certain minor violations of Exchange Rules can be resolved fairly, effectively and expeditiously. Because the minor rule violations subject to summary fines are easily ascertainable by floor officials, they are suitable for summary fine treatment. The proposed changes are meant to clarify the categories of behavior subject to summary fines and clarify the authority of floor officials to summarily fine under the Summary Fine Rule.

Currently, Rule 6.20 provides that admission to the Exchange's trading floor is limited to members, employees of the Exchange, clerks employed by members and registered with the Exchange, and such other persons as may be provided by resolution of the Board. The Exchange is proposing to amend Rule 6.20 to clarify that Exchange visitors and service personnel, including but not limited to, electricians, building maintenance engineers, and computer repair support staff, are authorized admission to the trading floor pursuant to and in accordance with Exchange policy concerning admission to the trading floor.[8] In addition, the amendment to Rule 6.20 grants the President, rather than the Board, the authority to allow other people admission to the floor, because admission to the floor is primarily an administrative issue and the President is generally able to act more expeditiously than the Board, which generally must convene a meeting to take action.

The summary fines for Rule 6.20 violations are set forth in the Trading Conduct and Decorum Circular. Currently, if a member is fined for a Rule 6.20 violation more than once in a calendar year, that individual is subject to increased summary fines for a second or subsequent offense of that kind in the same calendar year. The Exchange proposes to amend the Trading Conduct and Decorum Circular to provide that summary fines for second or subsequent offenses will be assessed on a twelve-month rolling period, rather than on a calendar year basis. This Circular also is being amended to allow for the fining of any supervisory personnel of an associated person of a member who fails to adequately supervise an associated person. The Circular and Rule 17.50 also are being amended to clarify that the Exchange, if warranted under the circumstances, may impose a fine for a first offense equal to the fine authorized for a second or third offense and to impose for a second offense the fine authorized for a third offense. This provision permits the Exchange to impose greater fines for more serious behavior. Currently, floor officials only have the ability to impose a fine authorized for a third offense for a first or second offense. This has restricted the ability of floor officials to fine a manner corresponding to the circumstances.[9]

The Exchange also is amending the Trading Conduct and Decorum Circular to add the following summary fine categories: Enabling a barred or suspended member to gain improper access to the floor, with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Enabling or assisting a member or associated person to gain improper access to the floor, with fines of $100 for a first violation, $250 for a second violation, and $500 for a third violation; Gaining improper access to the floor, with fines of $100 for a first violation, $250 for a second violation, and $500 for a third violation; Impermissible use of member phones, with fines of $50 for a first violation, $150 for a second violation, and $300 for a third violation; Visitor badge returned late, with a warning for the first violation, a $25 fine for a second violation, and a $50 fine for a third violation; and Failure to supervise a visitor, with fines of $50 for a first violation, $100 for second violation, and $250 for a third violation.

Additionally, the Exchange is amending the Trading Conduct and Decorum Circular to specify fine amounts for the following conduct: Effecting or attempting to effect transactions with no public outcry, with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Failure of a market-maker to respond to a request for the market by order book official, with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Failure to bid or offer within ranges specified by Rule 8.7(b), with fines of $500 for a first violation, $1,000 for a second violation, and $2,000 for a third violation; Failure to abide by floor official determination or floor official request for information, with fines of $1,000 for a first violation, $2,500 for a second violation, and $5,000 for a third violation; and Violation of Rule 8.51 in an option class other than OEX or DJX, with fines of any amount up to $5,000 for first, second and third violations. Floor officials currently have fining authority for this conduct under Rule 6.20.04, but specific fine amounts for the conduct are not set forth in the Trading Conduct and Decorum Circular. Including this conduct in the Circular will clarify that floor official fines for this conduct are imposed under the Summary Fine Rule.

The Exchange also is proposing to change some of the summary fine amounts in the Trading Conduct and Decorum Circular. The current fine for property damage is $500 for the first violation, $750 for the second violation and $1,000 for the third violation. The Exchange is proposing to increase the latter two fines to $1,000 for a second violation and $2,000 for a third violation.

The Exchange also is proposing to amend Rule 6.20(c) to clarify that the Exchange has the authority to direct members and persons employed by or associated with members to act or cease to act in a manner to ensure compliance with Exchange Rules.[10]

In addition, because the Exchange is consolidating all summary fine procedures under the Summary Fine Rule, the Exchange is proposing to amend Rule 6.20(c) by deleting the reference to Chapter XIX and its appeal procedures, because the appeal procedures for summary fines are set forth in the Summary Fine Rule. The proposed rule change also amends Rule 6.61, Interpretation and Policy .05(d) by deleting the last two sentences that relate to the authority of the Exchange to establish a fine schedule and refer violations to the Business Conduct Committee. The Exchange is deleting this language because it is attempting to consolidate summary fine authority under Exchange Rule 17.50. In addition, a member's failure to observe the procedures referenced in Interpretation and Policy .05 is subject to the disciplinary authority of the Business Conduct Committee under Chapter XVII of the Exchange's Rules, therefore making the cross-reference in Interpretation and Policy .05 unnecessary.[11] The Exchange also is proposing to clarify that non-member

[8] *See* Amendment No. 1, *supra* note 3.

[9] Telephone conversation between Arthur Reinstein, Associate General Counsel, CBOE, Debora Barnes, Senior Attorney, CBOE, and Terri Evans, Attorney, Division, Commission, on September 1, 1998.

[10] Telephone conversation between Arthur Reinstein, Associate General Counsel, CBOE, Debora Barnes, Senior Attorney, CBOE, and Terri Evans, Attorney, Division, Commission, on September 1, 1998.

[11] *See* Amendment No. 1, *supra* note 3.

joint venture participants have the right to appeal fines under the Summary Fine Rule.

The Exchange also proposes to amend Exchange Rule 6.51, Interpretation and Policy .01, by amending the final paragraph to delete the reference to the Floor Procedure Committee. This change is being proposed to conform the Exchange's Rule language with the Exchange's current practice. The Floor Procedure Committee is no longer involved in fining floor members who violate Rule 6.51(a) or (b); instead members are fined pursuant to the Summary Fine Rule.[12]

The Exchange is proposing that Rule 8.51 (''Firm Quote Rule'') be revised as well, to provide that floor officials may fine members of trading crowds under the Summary Fine Rule for violations of the Firm Quote Rule.[13] This change is being proposed to consolidate all of the minor rule violation authority of floor officials under the Summary Fine Rule, rather than having the Firm Quote Rule refer to Rule 6.20, which then refers back to the Summary Fine Rule. This proposed rule change also makes certain changes to clarify and incorporate Rule 6.20, the Summary Fine Rule, and the Trading Conduct and Decorum Circular into other Exchange Rules.[14]

III. Discussion

After careful review the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulation thereunder applicable to a national securities exchange.[15] Specifically, the Commission believes that the proposal is consistent with the requirements of Sections 6(b)(5), 6(b)(6) and 6(b)(7) of the Act,[16] because the proposed rule change is designed to promote just and equitable principles of trade and protect investors and the public interest, discipline members who fail to comply with the Exchange's Rules, and provide for fair disciplinary procedures.

In the proposed rule change, the Exchange proposes, in part, to: (1) clarify that the Floor Procedure Committee is no longer involved in fining floor members for violating CBOE Rule 6.51(a) or (b); (2) consolidate summary fine authority under the Summary Fine Rule; and (3) clarify and incorporate Rule 6.20, the Summary Fine Rule and Trading Conduct and Decorum Circular into other Exchange Rules. The Commission believes that the proposed rule change clarifies the Exchange's disciplinary procedures and conforms the Exchange's Rules with current practice. The Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[17] because the clarification and enhancement of the Exchange's summary fine plan promotes just and equitable principles of trade.

The Exchange also proposes to: (1) create a twelve-month look back period for assessing fines for second or subsequent offenses; (2) levy a fine for a first offense equal to the fine authorized for a second or third offense and impose a fine authorized for a third offense for a first or second offense based on the seriousness of the offense; (3) fine supervisory personnel who fail to adequately supervise associated persons; (4) add categories of behavior subject to summary fines as well as increase current fines; and (5) clarify that floor officials have the authority to direct members and persons employed by or associated with members to act or cease to act to achieve compliance with Exchange Rules. The Commission believes that these amendments to the Exchange's Rules and Trading Conduct and Decorum Circular are consistent with Section 6(b)(6) of the Act,[18] because the proposed changes provide for prompt, effective and appropriate discipline under the Exchange's Summary Fine Rule. Further, the proposed rule change encourages greater supervision of persons associated with members and compliance with the Exchange's Rules. The Commission notes that allowing the Exchange to create a twelve-month lookback period is consistent with the existing framework of graduated fines and may increase the Exchange's ability to deter repeat offenders. Further, the Commission believes that allowing the imposition of greater fines for first or second offenses should deter serious misconduct.

The Commission believes that the amendments to CBOE Rule 6.20, clarifying the appeals procedure for non-member joint venture participants and the appeals process under the Summary Fine Rule, are consistent with Section 6(b)(7) of the Act,[19] because the amendments help to ensure that the Exchange provides fair procedures for disciplining members, including joint venture participants that are treated as members of the Exchange for purposes of Exchange Rules 6.7 and 6.20. The Commission believes that the right to appeal sanctions helps to safeguard the procedural rights of sanctioned persons while preserving the Exchange's ability to adjudicate minor rule violations in a timely and efficient manner.

The Commission also believes that the Exchange's amendment to Exchange Rule 6.20 is appropriate in light of the practical need to allow service personnel on the trading floor. Further, the Commission believes that the President is the appropriate officer of the Exchange to grant the admission of other people onto the trading floor.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–CBOE–98–22) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

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[12] Telephone conversation between Arthur Reinstein, Associate General Counsel, CBOE, Debora Barnes, Senior Attorney, CBOE, and Terri Evans, Attorney, Division, Commission, on September 1, 1998.

[13] The Exchange has issued separate circulars setting forth fine schedules for violations of Rule 8.51 with respect to OEX and DJX options. These circulars were approved by the Commission in SR–CBOE 96–31 and SR–CBOE–97–45.

[14] For example, in Amendment No. 1, the Exchange notes that it has deleted the reference to member organizations in certain of the rules proposed to be amended by the rule filing that also refer to members, because Section 1.1 of the Exchange Constitution defines the term ''member'' to include either an individual member or a member organization.

[15] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5)–(b)(7).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(6).

[19] 16 U.S.C. 78f(b)(7).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40604; File No. SR–CBOE–98–44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Authority Over RAES Rejects

October 26, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.