

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. Please include File Number SR-CBOE-2008-69 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-2008-69. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-2008-69 and should be submitted on or before August 5, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Acting Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58119; File No. SR-CBOE-2008-53]

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

July 8, 2008.

On May 19, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend CBOE Rule 17.50 (Imposition of Fines for Minor Rule Violations) and to revise the provisions of CBOE 17.50(g)(1) (Violations of Position Limits Rules). The proposed rule change was published for comment in the **Federal Register** on June 5, 2008.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the

Act,⁵ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission further believes that CBOE's proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,⁶ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing CBOE Rule 17.50 provides procedural rights to a person fined under the MRVP to contest the fine and permits a hearing on the matter, the Commission believes that the MRVP, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.⁷ In addition, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,⁸ which governs minor rule violation plans. The Commission believes that the proposed rule change should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

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

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

⁷ 15 U.S.C. 78f(b)(7) and 78f(d)(1).

⁸ 17 CFR 240.19d-1(c)(2).

disciplinary action under CBOE Chapter XVII.

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

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

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-16061 Filed 7-14-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58118; File No. SR-FINRA-2008-030]

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rule 3130 (Annual Certification of Compliance and Supervisory Processes) in the Consolidated FINRA Rulebook

July 8, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 18, 2008, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. 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

FINRA is proposing to adopt NASD Rule 3013 (Annual Certification of Compliance and Supervisory Processes) and IM-3013 (Annual Compliance and Supervision Certification) as a FINRA rule in the consolidated FINRA rulebook without material change and to delete the corresponding provisions in Incorporated NYSE Rule 342.30 and NYSE Rule Interpretations 311(b)(5)/04

through /05 and 342.30(d)/01 through (e)/01.³ The proposed rule change would renumber NASD Rule 3013 and IM-3013 as FINRA Rule 3130 in the consolidated FINRA rulebook. The text of the proposed rule change is at FINRA's Web site at <http://www.finra.org>, at FINRA's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

As part of the process of developing the new consolidated rulebook (the "Consolidated FINRA Rulebook"),⁴ FINRA is proposing to adopt NASD Rule 3013 (Annual Certification of Compliance and Supervisory Processes) and IM-3013-1 (Annual Compliance and Supervision Certification) as a FINRA Rule in the Consolidated FINRA Rulebook.

NASD Rule 3013 and Incorporated NYSE Rule 342 require each member to designate one or more principals to serve as a chief compliance officer ("CCO"). These Rules further require that the chief executive officer(s) ("CEO") certify annually that the member has in place processes to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with applicable NASD (or NYSE) rules and federal securities laws and regulations. The certification includes not only a statement that the member has in place

certain compliance processes, but also that the CEO(s) has conducted one or more meetings with the CCO(s) in the preceding 12 months to discuss the processes. Incorporated NYSE Rule 342 and NASD IM-3013 explain that the mandated meetings between the CEO(s) and CCO(s) must include a discussion of the member's compliance efforts to date and identify and address significant compliance problems and plans for emerging business areas. NASD IM-3013 contains additional guidance, including setting forth the expertise that is expected of a CCO. The same expertise requirements are also found in Incorporated NYSE Rule Interpretation 342.30.

There currently are four differences in the rules. First, NASD IM-3013 requires that the member provide to its board of directors and audit committees (or equivalent bodies) the report that evidences the processes to which the CEO(s) certifies either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of certification. The Incorporated NYSE rules require submission of the report to those bodies prior to certification. FINRA does not intend to require the board of directors or audit committee to review or consider the report as a condition to the CEO executing the certification; rather, FINRA intends the provision to ensure that those governing bodies remain informed of this aspect of the member's compliance system in the context of their overall responsibility for governance and internal controls of the member for which they serve. Accordingly, the proposed rule change would maintain the NASD rule requirements.

Second, the current rules differ in the certification deadline. Incorporated NYSE Rule 342.30 requires certification as part of the submission of a member's annual compliance report, which is due by April 1 of each year. NASD Rule 3013 requires certification not later than the anniversary of the prior year's certification. And while NASD allowed members to execute their first certification no later than April 1, 2006, to accommodate Dual Members, many FINRA-only firms executed their first certification earlier than that and thus have differing anniversary dates. Moreover, new members are required to execute their first certification within a year of approval for membership; therefore some firms necessarily are on a cycle that does not correspond to April 1. The proposed rule change would maintain the NASD rule deadline to provide firms the flexibility to certify on a schedule that meets with their

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 240.19d-1(c)(2).

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See *infra* note 4 regarding "Incorporated NYSE Rules."

⁴ The current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) rules incorporated from NYSE ("Incorporated NYSE Rules") (together referred to as the "Transitional Rulebook"). The Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). Dual Members also must comply with NASD Rules. For more information about the rulebook consolidation process, see *FINRA Information Notice*, March 12, 2008 (Rulebook Consolidation Process).