No. 37496, July 30, 1996) and by publication in the Federal Register (61 FR 40689, August 5, 1996). No comment letters were received. This order approves the proposed rule change.

One purpose of the change to Interpretation .01(d) is to allow the Exchange staff thirty days to respond to a Respondent's document request before tolling the Respondent's settlement period. Pursuant to CBOE Rule 17.8, after a Respondent is served with a statement of charges for an alleged rule violation, that Respondent has 120 days to attempt to resolve the charges by submitting a written offer of settlement. Pursuant to CBOE Rule 17.4(c), within 60 days after a statement of charges has been served, a Respondent may make a written request for access to all documents concerning the case that are in the investigative file of the Exchange except for staff investigation and examination reports and materials prepared by the staff in connection with such reports or in anticipation of a disciplinary hearing or other privileged materials. If a Respondent requests access to the investigative file, Interpretation .01(d) currently provides that the 120-day time period for submitting a written offer of settlement shall be tolled during the number of days in excess of seven calendar days that it takes staff to provide access to documents in response to the Respondent's request.

The Exchange staff has found that, in most cases, it needs longer than seven days to respond to a request. Before providing access to documents, Exchange staff must review and organize the investigative file to remove privileged documents or information that is not discoverable and to remove information that may identify the complainant. There have been occasions where Exchange staff has spent more than 7 days preparing the investigative file for access, but after gaining the benefit of tolling, the Respondent submits an offer of settlement without ever reviewing the file. The rule change approved today reduces this potential for delay in concluding a disciplinary case by limiting a Respondent's ability to toll the 120-day settlement period.

The rule change also amends Interpretation .01(d) to deal with the situation where a Respondent has elected to proceed in an expedited manner pursuant to Rule 17.3 in an effort to resolve a matter by entering into a letter of consent prior to the issuance of charges, but is unsuccessful in negotiating a letter of consent.

Interpretation and Policy .01(b) under Rule 17.8 provides that if a Respondent is unsuccessful in an effort to reach agreement with Exchange staff upon a letter of consent and charges are issued, any time in excess of 30 days spent in attempting to negotiate a letter of consent is deducted from the 120-day settlement period, but that in any event a Respondent will always have at least 14 days after service of charges within which to submit an offer of settlement. The existing provision of Interpretation .01(d) tolls the settlement period after seven days when a document request has been made. Therefore, if a Respondent makes a document request on the first day of the 14-day settlement period, that Respondent currently has at least seven days remaining of the 14-day settlement period after the documents are provided within which to submit an offer of settlement.

However, Interpretation .01(d) as amended would not toll the settlement period until 30 days elapsed from the time that the respondent makes a document request. Thus, the settlement period could expire even though the Exchange has not yet responded to the document request. To assure that the settlement period does not expire before the Exchange has responded to the document request, and to further assure that a Respondent has a meaningful opportunity to review the requested documents, the rule change approved today also amends Interpretation .01(d) to provide that in no event will a Respondent have less than seven days after the receipt of requested documents within which to submit an offer of settlement.

The Commission believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(7) of the Act in that it improves the Exchange's procedures for the discipline of members and persons associated with members. The Commission believes the proposed change will make the review process more fair and efficient by reducing the potential for delay in concluding a disciplinary case resulting from Respondents, or their attorneys, requesting access to documents solely to gain an extension of the 120-day settlement period through tolling.

As noted above, the 120 day settlement period is frequently tolled under Interpretation .01(d) while Exchange staff responds to the Respondent's request for documents. The Commission believes that, by tolling the 120 day settlement period only if exchange staff takes more than 30 days to respond to a Respondent's request, the proposed change provides a Respondent with access to a documents in accordance with Rule 17.4(c) while discouraging access requests made for the purpose of extending the 120 days settlement period.[4]

The Commission also believes that it is consistent with the objectives of Section 6(b)(7) of the Act to amend Interpretation .01(d) to provide that in no event will a Respondent have less than seven days after the receipt of requested documents within which to submit an offer of settlement. The Commission believes that the proposed amendment to Interpretation .01(d) will make the review process more fair and efficient by continuing to provide a Respondent with a minimum of seven days after Respondent's receipt of requested documents within which to submit an offer of settlement.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR–CBOE–96–46 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–23311 Filed 9–11–96; 8:45 am]

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[Release No. 34–37646; File No. SR–CBOE–96–47]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating To Permitting a Subject of an Exchange Investigation To Submit a Videotaped Response in Lieu of or in Addition to a Written Response

September 5, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 10, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') 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 prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[4] The CBOE believes that, under the proposed rule change, access requests by Respondents typically should not extend the 120-day settlement period because the Exchange staff generally will be able to respond within 30 days to an access request.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to permit the subject of an Exchange investigation (''Subject'') to submit a videotaped presentation to the Exchange's Business Conduct Committee (''BCC'') in response to Exchange staff's notice given pursuant to Rule 17.2(d). That notice describes the general nature of allegations and specific rules that appear to have been violated by the Subject. This videotaped presentation could be submitted by the Subject to the BCC in lieu of, or in addition to, submitting a written statement as permitted by Rule 17.2(d).

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

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

In its filing with the Commission, the CBOE 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. The CBOE 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

The purpose of the proposed rule change is to permit subjects of Exchange investigations to submit a videotaped presentation to the BCC in response to Exchange staff's notice given pursuant to Rule 17.2(d). That notice describes the general nature of allegations against, and of specific rules that appear to have been violated by, the Subject of the Exchange investigation. This videotaped presentation could be submitted to the BCC in lieu of, or in addition to, submitting a written statement as permitted by Rule 17.2(d).

Under existing Rule 17.2, if, after conducting an investigation, Exchange staff finds that there are reasonable grounds to believe that a rule violation has been committed, the Exchange staff submits a written report to the BCC.[1] Prior to submitting the report to the BCC, the Exchange staff notifies the Subject of the general nature of the allegations and the specific provisions of the rules or regulations that appear to have been violated. Pursuant to Rule 17.2(d), except when the BCC determines that expeditious action is required, the Subject then has fifteen (15) days from the date of the Exchange staff's notice to submit a written statement to the BCC explaining why no disciplinary action should be taken.

The proposed rule change would permit the Subject's statement to be made in a videotaped format instead of, or in addition to, submitting a written response. The Exchange decided to propose this change because a number of members have indicated that they would be more comfortable presenting their position orally, rather than attempting to draft a persuasive response letter. The Exchange believes that permitting a Subject of an investigation to respond on videotape, which could then be viewed by BCC members at their convenience, would be beneficial to the BCC and the Subject.

The proposal grants the Exchange the discretion to set a time limit on the videotaped response. Initially, the Exchange will set a time limit of fifteen minutes on a videotaped response. The videotaped response would also have to be submitted in a format approved by the Exchange. Initially, the Exchange will require that a videotaped response be in a VHS format. The Exchange may change the foregoing time limit and format requirements from time to time, and will publish the applicable time limit and format requirements in a regulatory circular to the Exchange membership.

2. Statutory Basis

By permitting Subjects of Exchange investigations to submit a response in a videotaped format, the Exchange believes the disciplinary process can be enhanced by giving Subjects more flexibility in responding to a Rule 17.2(d) notice. For this reason, this policy furthers the objectives of Section 6(b)(7) of the Act in that it is designed to provide a fair procedure for the disciplining of members and persons associated with members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–96–47 and should be submitted by October 3, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

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[1] Exchange staff may draft and submit a report to the BCC if it finds that there are not reasonable grounds to believe a violation has been committed; however, such a report is not required under Exchange rules.

[2] 17 CFR 200.30–3(a)(12).