This is a Severity Level III violation (Supplement VII). Civil Penalty—$55,000

Summary of Licensee's Response to Violation

The Licensee denied the violation, asserting that there is no evidence that decisions made by AmerenUE's Access Control Supervisor were motivated by an intent to retaliate against the security officer. AmerenUE stated that based on the information known to the Access Control Supervisor at the time these decisions were made, the Access Control Supervisor acted reasonably and in good faith. The Licensee's specific arguments were:

(1) AmerenUE did not knowingly rely on a biased investigation and report by TWC to revoke the security officer's Access Authorization because the Access Control Supervisor had no reason to suspect that the TWC Investigation was biased. The Access Control Supervisor spoke to the TWC Project Manager on November 20, 1999, to inquire about the security officer's termination. The TWC Project Manager informed her that TWC discovered during the course of an investigation that the security officer misrepresented herself as a representative of Callaway when the security officer called the high school principal. The Access Control Supervisor was informed that the investigation was independent and was conducted by an off-site auditor. The Access Control Supervisor reasoned that an individual whose employment was terminated due to her lack of trustworthiness should not maintain her unescorted access authorization, and therefore the security officer's unescorted access authorization was revoked. The Access Control Supervisor did not see the TWC report until after the security officer's access was revoked and did not have cause to suspect the TWC investigation was biased. Accordingly, she could not have knowingly relied on a biased investigation report. AmerenUE could not have violated 10 CFR 50.7 unless the preponderance of the evidence shows that the Access Control Supervisor revoked the security officer's access authorization with the intention of retaliating against the security officer for her protected activity.

(2) The Access Control supervisor made a good faith effort to determine whether a temporary watchman knowingly misrepresented his educational qualifications by interviewing the high school principal on December 2, 1999. The principal stated his belief that the temporary watchman likely did not know he had not graduated, and ''cited circumstances from the high school program to support this view.'' When AmerenUE subsequently became aware of information suggesting that the temporary watchman likely knew he had not graduated from high school, his access was revoked. The Access Control Supervisor's failure to discover particular information in her initial investigation does not amount to bad faith. The Access Control Supervisor had no motive to treat the temporary watchman more favorably than she treated the security officer.

NRC Evaluation of Licensee's Response to Violation

AmerenUE's principal argument is that AmerenUE, and the Access Control Supervisor in particular, were not motivated by an intent to retaliate against the security officer. AmerenUE then argues that there can be no violation of 10 CFR 50.7 on the part of AmerenUE without showing such intent. AmerenUE provides many facts in support of its arguments. The central issues are whether a violation of 10 CFR 50.7 occurred, and whether AmerenUE is responsible for that violation.

AmerenUE has provided no new information regarding whether a violation of 10 CFR 50.7 occurred, and did not address whether its contractor, TWC, engaged in discriminatory action. The NRC has reviewed the information in AmerenUE's January 22, 2002 response, as well as the information TWC provided in response to this violation in a January 23, 2002 letter, and concludes that a violation of 10 CFR 50.7 occurred. As stated in the Notice of Violation, the security officer and the training instructor engaged in protected activity, each was subjected to adverse action, and the adverse action occurred, at least in part, because of the protected activity.

AmerenUE's argument that the NRC must show retaliatory intent on the part of AmerenUE personnel is mistaken. Discriminatory intent on the part of its Access Control Supervisor is not necessary for AmerenUE to have violated 10 CFR 50.7. A violation of 10 CFR 50.7 by a licensee's contractor may be grounds for imposition of a civil penalty upon the licensee. 10 CFR 50.7(c)(2). *See Atlantic Research Corporation,* CLI–80–7, 11 NRC 413, 419–424 (1980). The fact that AmerenUE delegated a portion of its responsibilities to a contractor, *i.e.*, The Wackenhut Corporation (TWC), does not relieve AmerenUE of its responsibility to maintain compliance with NRC requirements at Callaway. AmerenUE participated in this matter by revoking the security officer's access to the facility, an adverse action, and in doing so AmerenUE relied upon biased information provided by its contractor, who thereby participated in taking this action. AmerenUE could have, and should have, exercised more care in implementing adverse action against an individual who was known to have raised a concern about compliance with security requirements at Callaway.

NRC Conclusion

The NRC has concluded that this violation occurred as stated, and that AmerenUE has not provided a basis for withdrawal of the Notice of Violation or the civil penalty. Consequently, the proposed civil penalty in the amount of $55,000 should be imposed.

[FR Doc. 02–13081 Filed 5–23–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information, Services Washington, DC 20549

Extension:

Rule 17a–22, SEC File No. 270–202, OMB Control No. 3235–0196

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 USC 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

sbull Rule 17a–22 Supplemental Material of Registered Clearing Agencies

Rule 17a–22 under the Securities Exchange Act of 1934 (''Exchange Act'')[1] requires all registered clearing agencies to file with the Commission three copies of all materials they issue or make generally available to their participants or other entities with whom they have a significant relationship. The filings with the Commission must be made within ten days after the materials are issued, and when the Commission is not the appropriate regulatory agency, the clearing agency must file one copy of the material with its appropriate regulatory agency. The Commission is responsible for overseeing clearing

[1] 15 U.S.C. 78a *et. seq.*

agencies and uses the information filed pursuant to Rule 17a–22 to determine whether a clearing agency is implementing procedural or policy changes. The information filed aids the Commission in determining whether such changes are consistent with the purposes of Section 17A of the Exchange Act. Also, the Commission uses the information to determine whether a clearing agency has changed its rules without reporting the actual or prospective change to the Commission as required under Section 19(b) of the Exchange Act.

The respondents to Rule 17a–22 generally are registered clearing agencies.[2] The frequency of filings made by clearing agencies pursuant to Rule 17a–22 varies, but on average there are approximately 200 filings per year per clearing agency. Because the filings consist of materials that have been prepared for widespread distribution, the additional cost to the clearing agencies associated with submitting copies to the Commission is relatively small. The Commission staff estimates that the cost of compliance with Rule 17a–22 to all registered clearing agencies is approximately $5,220. This represents one dollar per filing in postage, or a total of $3,600. The remaining $1,620 (or approximately 31% of the total cost of compliance) is the estimated cost of additional printing, envelopes, and other administrative expenses. (The estimated total cost per response is $1.45 per page representing $1.00 per page in postage plus $0.45 for printing, envelopes, and other administrative expenses.)

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: May 16, 2002.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[2] Respondents include temporarily registered clearing agencies. Respondents also may include clearing agencies granted exemptions from the registration requirements of Section 17A, conditioned upon compliance with Rule 17a–22.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45945; File No. SR–CBOE–2002–25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. To Allow for $0.50 Strike Price Intervals for Options Based on Certain Exchange-Traded Funds

May 16, 2002.

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 May 8, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Exchange submitted Amendment No. 1 to the proposed rule change on May 15, 2002.[3] The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing Amendment No. 1 with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange represents that CBOE has the necessary systems capacity to support any additional series of options that may be added pursuant to the proposed rule change. The Exchange also attached a letter from the Options Price Reporting Authority (''OPRA''), in which OPRA represents that OPRA has the capacity to support any additional series of options that may be added pursuant to the proposed rule change. *See* letter from Angelo Evangelou, Senior Attorney, Legal Division, CBOE, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, dated May 14, 2002 (''Amendment No. 1'').

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6). In its filing, the CBOE requested that the Commission waive the rule's requirements of a five-day pre-filing notice and a 30-day operative delay.

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

The CBOE proposes to amend its rules to allow for $0.50 strike price intervals for options based on certain exchange-traded funds. The text of the proposed rule change follows. Proposed new language is italicized.

Rule 5.5. Series of Option Contracts Open for Trading

(a)–(c) No change.

* * * Interpretations and Policies:

.01 The interval between strike prices of series of options on individual stocks will be:

(a) $2.50 or greater where the strike price is $25.00 or less; less, or where the stock represents an interest in a registered investment company that satisfies the criteria set forth in Interpretation and Policy .06 under Rule 5.3 and where the strike price is $200.00 or less;

(b) $5.00 or greater where the strike price is greater than $25.00, or where the stock represents an interest in a registered investment company that satisfies the criteria set forth in Interpretation and Policy .06 under Rule 5.3 and where the strike price is more than $200,00;

(c) $10.00 or greater where the strike price is greater than $200.00;

.02–.05 No change.

.06 Notwithstanding Interpretation and Policy .01 above, the interval between strike prices may be $0.50 or greater for options based on IPSs that correspond generally to the price and yield performance of 1/10th the value of the S&P 100 Index, *and for options based on a security that represents an interest in a registered investment company that corresponds generally to the price and yield performance of 1/100th the value of the Dow Jones Industrial Average.*

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.