

to the Commission that such action is necessary or appropriate in the 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549-0609. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-00-34 and should be submitted by January 3, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43667; File No. SR-CBOE-00-63]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Permitting the Use of the Exchange's AutoQuote System or a Proprietary Autoquote System in the Operation of the Exchange's Rapid Opening System

December 4, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 1, 2000, the Chicago Board Options Exchange,

Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change.

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

The Exchange proposes to adopt Interpretation .02 of its Rapid Opening System ("ROS") rule (CBOE Rule 6.2A)<sup>3</sup> to clarify that for purposes of the rule, "AutoQuote" means either the Exchange's AutoQuote system or a proprietary autoquote system operated by a member of the trading crowd where the particular ROS class is traded. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange 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 Exchange 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

In February 1999, the Exchange implemented a Rapid Opening System ("ROS") that has facilitated the expedited openings of options classes on the Exchange.<sup>4</sup> Since that time, ROS

<sup>3</sup> The rule text for the CBOE's proposed rule change was identified as "Interpretation .01" to Rule 6.2A instead of "Interpretation .02" and has been corrected in this notice. Interpretation 0.01 to Rule 6.2A was added in Securities Exchange Act Release No. 43666 (December 4, 2000). Telephone conversation between Timothy Thompson, Assistant General Counsel and Vice President, CBOE, and Susie Cho, Attorney, Division, SEC, December 4, 2000.

<sup>4</sup> The ROS pilot program was first approved by the Commission in February 1999. See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999). The ROS pilot has been extended through September 2001. See Securities Exchange Act Release No. 43395 (September 29, 2000), 65 FR 60706 (October 12, 2000).

has been used in a number of equity option trading crowds to open options classes within seconds of the opening of the underlying security. The Exchange believes that by entering into open trading more quickly using ROS, customer orders have been addressed in open trading in a timelier manner.

ROS determines a single opening price for each series by applying an algorithm that takes into account the AutoQuote values fed into ROS as well as those orders contained in the customer limit order book (and that are otherwise represented in the crowd pursuant to the ROS rule). The algorithm is generally designed to maximize the number of customer orders able to be traded at or between the bid-ask values submitted from AutoQuote. When the Exchange first implemented ROS, the system was designed to operate only with the Exchange's AutoQuote system. The Exchange noted, however, that "[l]ater versions of ROS may accommodate inputs from systems other than AutoQuote."<sup>5</sup> The CBOE now represents that ROS is able to accept inputs from various proprietary quote systems that are operated on the floor of the Exchange.<sup>6</sup> The Exchange is thus proposing to add Interpretation .02 to CBOE Rule 6.2A to make it clear that, for purposes of the Rule, the term "AutoQuote" means either the Exchange's AutoQuote system or a proprietary autoquote system operated by a member of the trading crowd.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>7</sup> in general and furthers the objectives of section 6(b)(5)<sup>8</sup> in particular in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

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

The CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

<sup>5</sup> *Id.*

<sup>6</sup> In lieu of using the Exchange's own AutoQuote system, some DPMs and trading crowds employ proprietary autoquote systems which serve the same function that operate in much the same manner as the Exchange's own system. These systems generally employ the same general mathematical formulas for determining the quotes although with certain proprietary refinements.

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

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

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

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

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

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(1)<sup>10</sup> thereunder. 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 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-SBOE-00-63 and should be submitted by January 3, 2001.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-43686; File No. SR-DTC-00-20]**

**Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Fees for the DALI Service**

December 6, 2000.

Pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on December 5, 2000, The Depository Trust Company ("DTC") 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 DTC. 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**

The proposed rule change will establish fees for DTC's DALI service.<sup>2</sup>

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

At its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.<sup>3</sup>

<sup>1</sup> 17 CFR 200.30-3(a)(12).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> DALI is a tax service that will be available on or about January 1, 2001, for the transmission of information used in calculating and reporting U.S. withholding tax on payments made to non-U.S. persons. For further explanation of the DALI service, refer to Securities Exchange Act Release No. 43640 (Nov. 29, 2000).

<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

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

The purpose of the proposed rule change is to establish the following fees for DTC's DALI service:

*DALI Fees*

Initial Registration Fee—\$2,500

Annual Membership Fee—\$2,500 (browser only) or \$10,000 (File Transfer Protocol and browser)

Transaction Fee—\$0.33 per billable message

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act<sup>4</sup> and the rules thereunder because it will promote the prompt and accurate clearance and settlement of securities transactions by equitably allocating fees among users of the DALI service.

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

DTC does not believe that the proposed rule change will impose any burden on competition.

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

No comments from DTC's participants concerning the proposed rule change were solicited or received.

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>5</sup> and Rule 19b-4(f)(2)<sup>6</sup> thereunder because the proposed rule change establishes a fee. At any time within sixty 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 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW.,

<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).