SBA will waive the duplicative portion of an Index Plus Fund's advisory fee to the extent that an Index Plus invests in shares of the Short Fund. Applicants further represent that the Index Plus Funds will not pay any sales charges or distribution fees in connection with their investment in shares of the Short Fund.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and the acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Securities Exchange Act of 1934 or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on section 12(d)(1) (F) or (G). Applicants state that the proposed arrangement would comply with the provisions of section 12(d)(1)(G), but for the fact that each Index Plus Fund's policies contemplate that it will invest in Index Securities and Other Securities while also investing in shares of the Short Fund.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants assert that permitting the Index Plus Funds and other Upper Tier Funds to invest in securities as described in the application would not raise any of the concerns that the requirements of section 12(d)(1)(G) were designed to address.

Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Before approving any advisory contract under section 15 of the Act, the board of trustees of an Index Plus or other Upper Tier Fund, including a majority of the trustees who are not ''interested persons'' as defined in section 2(a)(19) of the Act, will find that advisory fees, if any, charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract. This finding, and the basis upon which it was made, will be recorded fully in the minute books of the Index Plus Fund or Upper Tier Fund.

2. Applicants will comply with all provisions of section 129d)(1)(G), except for section 12(d)(1)(G)(i)(II) to the extent that it restricts an Index Plus Fund or Other Upper Tier Fund from investing in Index Securities and Other Securities as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19225 Filed 7–27–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41625; File No. SR–CBOE–99–25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market-Maker Surcharge Fee Schedule

July 19, 1999.

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 17, 1999, the Chicago Board Options Exchange, Inc. (''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 CBOE. 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 CBOE is proposing to make changes to its fee schedule pursuant to CBOE rule 2.40, *Market-Maker Surcharge for Brokerage*.[3]

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

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee (''Committee'') approved the following fees for the following option classes:

Option class	Market-maker surcharge (per contract)	Order book official brokerage rate (per contract)[4]
AboveNet Communications ...	$0.08	$0.00
Prodigy Communications Corp.	0.03	0.00

The fees for AboveNet will be effective retroactive to May 10, 1999, and the fees for Prodigy will be effective

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999) (order approving CBOE Rule 2.40).

[4] The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate from $0.20 in the relevant option classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in Exchange Rule 2.40.

retroactive to May 18, 1999.[5] Both fees will remain in effect until such time as the Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

These fees are being implemented mid-month because both of these fees are for new options classes, which have not traded before. As a result, changes had to be made to the billing program to account for these new classes in the middle of the month.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4)[7] of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

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

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

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

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[8] and paragraph (f)(2) of Rule 19b–4 thereunder.[9] At any time within 60 days of the filing of the 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.[10]

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 also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–25 and should be submitted by August 18, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–19264 Filed 7–27–99; 8:45 am]

BILLING CODE 8010–01–M

[5] At its May 20, 1999, meeting, the Committee approved these fees retroactive to the respective dates the fees began. Although the fees are planned to be calculated for activity that occurred as of the dates referred to above, the actual bills for payment will be sent in June.

[6] Through miscommunication, certain Exchange Staff believed these fees could be instituted in mid-month and presented in a filing at the end of the month since the actual charges would not be invoiced until that point. However, CBOE has instituted procedures to ensure that a filing be done prior to the fees being implemented, regardless of whether the fees are being implemented mid-month or at the beginning of the next month. Telephone conversation between Michael Walinskas, Associate Director, Division of Market Regulation, Commission, and Timothy Thompson, Director, Regulatory Affairs, CBOE, on May 27, 1999.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

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

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41640; File No. SR–DTC–99–18]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding a Year 2000 Compliance Acknowledgment

July 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 6, 1999, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

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

Under the proposed rule change, DTC will require that its participants who provide settlement information solely through DTC's proprietary Participant Terminal System (PTS) submit to DTC, no later than September 15, 1999, a Year 2000 compliance acknowledgment demonstrating their operational capability.

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

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed 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.[2]

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

On January 1, 2000, we will experience the first century change since the advent of computers and related technology. Because certain computer programs may misinterpret the Year 2000 as 1900, the U.S. financial industry has undertaken efforts to prepare for the impending date change. As the new millennium approaches, DTC must assess its own Year 2000 readiness, as well as seek comfort as to the Year 2000 readiness of all its participants.

Under the proposed rule change, DTC is setting forth a policy statement with respect to DTC's Rule 2. That rule provides the standards and obligations that entities must meet to become DTC participants and to retain their status as participants. Pursuant to Rule 2, a participant must furnish to DTC, upon DTC's request, information that

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

[2] The Commission has modified the text of the summaries prepared by DTC.