

of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹¹

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to waive the operative delay if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal is substantially identical to the ISE's Quarterly Option Series Pilot Program, previously published for comment and approved by the Commission,¹² and thus CBOE's proposal raises no new issues of regulatory concern. Moreover, waiving the operative delay will allow CBOE to immediately compete with other exchanges that list and trade quarterly options under similar programs, and consequently will benefit the public. Therefore, the Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative upon filing.¹³

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.

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

No. SR-CBOE-2006-65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2006-65. 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 Commissions 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. 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-2006-65 and should be submitted on or before August 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54120; File No. SR-DTC-2005-14]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Compliance With Regulations Administered by the Office of Foreign Assets Control

July 10, 2006.

On September 9, 2005, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and on October 25, 2005, amended the proposed rule change. On November 30, 2005, DTC again amended the proposed rule change.² Notice of the proposal was published in the **Federal Register** on November 14, 2005.³ The Commission received one comment letter.⁴ For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

DTC will revise its Deposit Service, Custody Service, and Withdrawals-By-Transfer Service procedures. These changes are based upon guidance from the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") to DTC.

1. Deposit Service

In order for a participant to receive immediate credit in its securities account at DTC for a deposit of registered securities, the participant will be required to certify to DTC that it has compared certain parties identified on the deposited certificate (this could include parties such as the issuer and all assignees) against OFAC's list of Specially Designated Nationals and against OFAC's regulations (collectively referred to as the "OFAC list") and that there were no matches identified by such comparison.

In the case of a deposit of registered securities by a participant located outside the United States, including a

¹ 15 U.S.C. 17s(b)(1).

² Republication of notice of proposed rule change is not required because the second amendment to the proposed rule change merely clarified an existing DTC practice and did not alter the rights or responsibilities of DTC's participants.

³ Securities Exchange Act Release No. 52721 (Nov. 2, 2005), 70 FR 69179.

⁴ Letter from Alan E. Sorcher, Vice President and Associate General Counsel, Securities Industry Association (Dec. 8, 2005), available online at <http://www.sec.gov/rules/sro/dtc/dtc200514.shtml>.

¹¹ The Exchange provided the Commission with pre-filing notice of the proposal, as required by Rule 19b-4(f)(6)(iii).

¹² See *supra* note 5.

¹³ For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ 17 CFR 200.30-3(a)(12).

deposit by or for the benefit of a participant accepted at a depository facility located outside the United States, a participant will not receive immediate credit in its securities account. DTC will give credit for the deposit only after DTC has screened the parties on the deposit against the OFAC list and has identified no valid matches.

2. Custody Service

With respect to securities and other financial instruments that are deposited pursuant to DTC's Custody Service procedures, DTC will act on the instructions of the depositing participant only after DTC has screened the parties on the deposit against the OFAC list and has identified no valid matches.⁵

3. Withdrawal-By-Transfer Service

For securities on deposit that are sought to be withdrawn pursuant to DTC's Withdrawal-By-Transfer Service, including Withdrawal-By-Transfer requests for securities in the Direct Registration System, DTC will act on the instructions of a withdrawing participant only after DTC has screened the investor in whose name the securities are to be registered against the OFAC list and has identified no valid match.

For each service, in the event that DTC identifies a match against the OFAC list, DTC will first attempt to resolve false-positive matches. For valid matches, DTC will present the matches to participants that issued the instructions through a new Participant Terminal System function called "OFAP." The participant will be required to review the registration of each certificate identified as a potential match and to respond to DTC for each such registration by providing information sufficient for DTC to conclude, in its sole discretion, that the registrant is or is not the person or entity listed on the OFAC list. Notwithstanding a participant's efforts to resolve matches against the OFAC list, if DTC, in its sole discretion, continues to believe that the registrant is the person or entity on the OFAC list, it will refuse to process the requested transaction.

II. Comment Letters

The Commission received one comment letter on the proposed rule change from the Securities Industry Association ("SIA"). The SIA recommended that the Commission: (1)

Allow for a reasonable implementation period that recognizes the significant changes broker-dealers will likely have to make to their systems and procedures; (2) clarify a participant's obligations to screen names that appear as prior owners on securities certificates; (3) clarify how introducing and clearing brokers are to implement certain provisions of the rule; and (4) provide guidance on the application of Regulation S-P,⁶ which governs the privacy of consumer financial information, to the process by which participants provide information to DTC. Furthermore, the SIA expressed concern that the rule change might negatively affect investors because of potential delays in processing their transactions due to duplicative OFAC checks.

In response to these comments, the Commission first observes that DTC provided its participants with the planned technical specifications of the processing systems for its deposit services in March 2006.⁷ On June 30, 2006, DTC further notified participants that the OFAC certification process would be implemented in two phases: Phase 1, which will be effective August 7, 2006, for deposits affecting a small category of deposits received by DTC and which should require no systems changes by participants; and Phase 2, which will be effective sometime in the fourth quarter of 2006, for the remaining deposits and that will require systems enhancements.⁸ The Commission believes that these time implementation time frames should be sufficient for participants to make any needed systems changes and to make any needed operational changes required to implement DTC's revisions.

Second, the "property" and "property interests" subject to OFAC regulations⁹ relate to items where the property owner has a "present, future, or contingent" ownership interest.¹⁰ Since prior security owners whose names might appear on a securities certificate have no present, future, or contingent interest in that property, transacting in such certificates would not appear to be prohibited by OFAC regulations.

⁶ 17 CFR 248.

⁷ "Preparation for the Implementation of OFAC Certification of Deposits from Domestic Participants," DTC Important Notice B9382-06 (Mar. 31, 2006), available online at http://www.dtc.org/impNtc/exe/exe_9382-06.pdf.

⁸ "Implementation of OFAC Certification of Deposits from Domestic Participants," DTC Important Notice B9899-06 (June 30, 2006), available online at http://www.dtc.org/impNtc/exe/exe_9899-06.pdf.

⁹ See, e.g., 31 CFR 215.203.

¹⁰ 31 CFR 515.311(a).

Third, in approving the proposed rule change, the Commission does not take a position on whether a DTC participant can evade OFAC liability if it relies on a certification of an introducing broker-dealer for which it acts that the introducing broker-dealer has screened the parties involved in the transaction against the OFAC list and that there were no matches identified by such screening.¹¹

Fourth, broker-dealers disclosing their customers' nonpublic personal information to comply with OFAC or DTC rules could rely on an exception from Regulation S-P's notice and opt out requirements for disclosures made to comply with Federal, state, or local laws, rules and other applicable legal requirements.¹² Recipients of information disclosed under this exception would be subject to Regulation S-P's limitations on the redisclosure and reuse of such information.¹³

With respect to the SIA's concern that some investors might be negatively affected by potential delays in processing duplicative OFAC checks, the Commission notes that any such potential delays in processing should be minimal and well justified in light of the importance of the goals and purposes of doing such checks.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in its custody or control.¹⁴ DTC, like all U.S. persons and entities, is subject to OFAC regulations.¹⁵ Pursuant to recommendations made by OFAC, DTC is establishing formal procedures that will define and allocate responsibility for screening the names of persons and entities involved in furtherance of its obligation to refuse to transact directly or indirectly with restricted persons and entities. In so doing, DTC mitigates its regulatory risk of conducting business with such restricted individuals and entities, which could substantially imperil its or its participants assets, and therefore should help DTC assure the safeguarding of securities and funds that

¹¹ The Commission notes that further inquiries relating to this subject should be directed to OFAC.

¹² See 17 CFR 248.15(a)(7)(i).

¹³ See, e.g., 17 CFR 248.11(a).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

¹⁵ The fines for violations can be substantial. Depending on the violation, criminal penalties can include fines ranging from \$50,000 to \$10,000,000 and imprisonment ranging from 10 to 30 years for willful violations. Civil penalties range from \$11,000 to \$1,000,000 for each violation.

⁵ This is the clarification that was the subject of DTC's November 30, 2005, amendment to the proposed rule change. *Supra* note 2.

are in its custody or control or for which it is responsible.

The OFAC-related procedures of, among others, DTC and broker-dealers, are the subject of ongoing OFAC and Commission reviews to determine the effectiveness of these procedures in identifying and blocking transactions with restricted persons and entities. Accordingly, DTC has acknowledged that subject to the finding of these reviews it may need to revise its procedures in the future and has represented that it will continue to work with the Commission and OFAC to improve the effectiveness of its OFAC-related procedures.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹⁶ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2005-14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54117; File No. SR-ISE-2006-37]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Short Term Option Series Pilot Program

July 10, 2006.

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 July 3, 2006, the International Securities Exchange, Inc. ("Exchange" or "ISE") 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 by the Exchange. ISE has

designated this proposal as non-controversial under section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. 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 Exchange proposes to amend Supplementary Material .02 to ISE Rule 504 and Supplementary Material .01 to ISE Rule 2009 to extend until July 12, 2007, its pilot program for listing and trading Short Term Option Series ("Pilot Program"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.iseoptions.com>), at the Exchange'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, 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

The purpose of the proposed rule change is to extend the Pilot Program for an additional year, through July 12, 2007.⁵ The Pilot Program allows ISE to list and trade Short Term Option Series, which expire one week after the date on which a series is opened. Under the Pilot Program, ISE may select up to five approved options classes on which Short Term Option Series could be opened.⁶ A series could be opened on

any Friday that is a business day and would expire on the next Friday that is a business day.⁷ If a Friday were not a business day, the series could be opened (or would expire) on the first business day immediately prior to that Friday.

For each class selected for the Pilot Program, the Exchange usually would open five Short Term Option Series in that class for each expiration date. The strike price of each Short Term Option Series would be fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security or calculated index value at about the time that the Short Term Option Series is opened. ISE would not open a Short Term Option Series in the same week that the corresponding monthly options series is expiring, because the monthly options series in its last week before expiration is functionally equivalent to the Short Term Option Series. The intervals between strike prices on a Short Term Option Series would be the same as the intervals between strike prices on the corresponding monthly options series.

The Exchange believes that Short Term Option Series can provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. While ISE has not listed any Short Term Option Series during the first year of the Pilot Program, there has been significant investor interest in trading short-term options at the Chicago Board Options Exchange ("CBOE").⁸ To have the ability to respond to customer interest in the future, the Exchange proposes the continuation of the Pilot Program.

In the original proposal to establish the Pilot Program, the Exchange stated

criteria under ISE rules (*i.e.*, stock options, options on exchange traded funds as defined under ISE Rule 502(h), or options on indexes). The Exchange could also list and trade Short Term Option Series on any options class that is selected by another exchange that employs a similar pilot program.

⁷ Short Term Option Series would be settled in the same manner as the monthly expiration series in the same class. Thus, if the monthly option contract for a particular class were A.M.-settled, as most index options are, the Short Term Option Series for that class also would be A.M.-settled; if the monthly option contract for a particular class were P.M.-settled, as most non-index options are, the Short Term Option Series for that class also would be P.M.-settled. Similarly, Short Term Option Series for a particular class are physically settled or cash-settled in the same manner as the monthly option contract in that class.

⁸ CBOE filed a report with the Commission on June 13, 2006, stating that CBOE has listed Short Term Options Series in four different options classes. *See* Securities Exchange Act Release No. 53984 (June 14, 2006), 71 FR 35718 (June 21, 2006) (extending CBOE's Short Term Option Series Pilot Program).

¹⁶ 15 U.S.C. 78q-1.

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 47 CFR 240.19b-4(f)(6).

⁵ The Commission approved the Pilot Program on July 12, 2005. *See* Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005) (SR-ISE-2005-17). Under ISE Rules 504 and 2009, the Pilot Program is scheduled to expire on July 12, 2006.

⁶ A Short Term Option Series could be opened in any options class that satisfied the applicable listing