

OTC Bulletin Board. The Commission also notes that no comments were received on the original BSE proposal, which was subject to the full 21-day comment period. Therefore, the Commission believes that is consistent with Section 6(b)(5) of the Act to approve Amendment No. 2 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 to the proposed rule change, including whether the amendment 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, 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 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-BSE-97-04 and should be submitted by May 19, 1998.

For the foregoing reasons, the Commission finds that BSE's proposal, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-BSE-97-04) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-11167 Filed 4-27-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39891; File No. SR-CBOE-97-40]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Relating to the "Terms and Conditions of an Order" for Purposes of the Exchange's Rules on Solicited Trades and Crossed Trades

April 21, 1998.

#### I. Introduction

On August 25, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change to define the phrase "Terms and Conditions of an Order" for purposes of the Exchange's rules on solicited trades and crossed trades. On March 23, 1998, the Exchange filed Amendment No. 2 to the proposed rule change with the Commission.<sup>3</sup>

The proposed rule change, and Amendment No. 1 thereto were published for comment in the **Federal Register** on November 17, 1997.<sup>4</sup> No comments were received on the proposal. This order approves the proposal as amended.

#### II. Description of the Proposal

The purpose of the proposed rule change is to define and clarify the meaning of the phrase "terms and conditions" of an order as used in Exchange Rules 6.9 and 6.74. Pursuant to Rule 6.9, *Solicited Transactions*, a member or member organization representing an order respecting an option traded on the Exchange (an "original order"), including a spread, combination, or straddle order as defined in Rule 6.53 and a stock-option

order as defined in Rule 1.1(ii), may solicit a member or member organization or a non-member customer or broker-dealer (the "solicited person") to transact in-person or by order (a "solicited order") with the original order.

Pursuant to Rule 6.74(b), a floor broker may effect a cross of a customer order and a facilitation order subject to satisfaction of certain conditions, including disclosure on an order ticket for the public customer order which is subject to facilitation, all of the terms of such order, including any contingency involving, and all related transactions in, either options or underlying or related securities. A facilitation order is defined in Rule 6.53(m) as an order which is only to be executed in whole or in part in a cross transaction with an order for a public customer of the member organization and which is clearly designated as a facilitation order.

The rules relating to both facilitation "solicited" and "crossing" transactions are designed to ensure that all market participants have an equal opportunity to participate in trades, fostering the objective of open outcry in a competitive market. The proposed rule amendment defines what is meant by the phrase "terms and conditions" as used in these two rules: the class; the series; the volume; the price; and contingencies; and any components related to the order. Components are related stock, options, futures or any other instruments or interests. A contingency order is a limit or market order to buy or sell that is contingent upon a condition being satisfied while the order is at the post. Contingent orders include: market-if-touched orders; market-on-close-orders; stop (stop-loss) orders; and stop-limit orders.

The Exchange believes that the proposed Interpretations will enable those who solicit and those who wish to effect "facilitation" crosses to understand and abide by their disclosure obligations. In addition, the proposed change will aid in achieving uniformity with regard to trading crowd expectations, as well as to the type and amount of information disclosed on crossed and solicited orders.

#### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>5</sup> Specifically, the Commission believes

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</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.

<sup>3</sup> See Letter from Stephanie C. Mullins, Attorney, CBOE to David Sieradzki, Attorney, SEC dated March 23, 1998 ("Amendment No. 2"). In Amendment No. 2, the Exchange adds option class and series to the definition of "Terms and Conditions of an Order." In addition, the Exchange adds language to the rule that indicates that the class of the option would be deemed disclosed if it is apparent that the crowd is aware of which option class is being traded.

<sup>4</sup> Securities Exchange Act Release No. 39308 (Nov. 6, 1997), 62 FR 61419 (Nov. 17, 1997).

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

the proposal is consistent with the Section 6(b)(5)<sup>6</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.<sup>7</sup>

The Exchange represents that the proposal will enable those who solicit and those who wish to effect "facilitation" crosses to understand and abide by their disclosure obligations. In addition, the Exchange represents that the proposed change will aid in achieving uniformity with regard to trading crowd expectations, as well as to the type and amount of information disclosed on crossed and solicited orders. The Commission supports the Exchange's efforts to review and clarify its rules relating to disclosure obligations of market participants. This is particularly true where, as here, the rule being clarified addresses priority accorded to orders on the floor of the Exchange. The Commission believes that the proposed rule change will help specify what information must be disclosed on crossed and solicited orders.

In November, 1994, when the Exchange adopted Rule 6.9, Solicited Transactions, the Exchange recognized the importance of fully disclosing the orders that comprise a solicited transaction to the trading crowd. The Exchange stated that if orders comprising a solicited transaction were not suitably exposed to the trading crowd "the execution of such orders would be inconsistent with the open auction market principles governing the execution of orders on the CBOE's floor."<sup>8</sup> By clarifying disclosure requirements with respect to solicited transactions, the current proposal should improve the ability of the Exchange to ensure that customer orders receive full consideration by the trading crowd.

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 2 adds option class and series to the definition of "Terms and Conditions." The Exchange has represented that this merely codifies the practice on the

options trading floor to disclose an option's class and series in effecting a "facilitation" cross or solicited transaction.<sup>9</sup> Further, the Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes it is appropriate to approve Amendment No. 2 to the Exchange's proposal on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 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, 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 provision 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 above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-97-40 and should be submitted by May 19, 1998.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-CBOE-97-40) is approved as amended.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-11165 Filed 4-27-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39894; File No. SR-DTC-97-23]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying Issue Eligibility Requirements

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 5, 1998, 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 primarily 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 modifies DTC's existing operational arrangements necessary for a securities issue to become eligible for the services of DTC.

#### 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 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>2</sup>

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

DTC's operational arrangements<sup>3</sup> currently incorporate the guidelines for income, reorganization, and redemption payments ("principal and income payments") established by the Same Day Funds Payment Task Force of the U.S. Working Committee, Group of Thirty Clearance and Settlement Project

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> Securities Exchange Act Release No. 34959 (November 9, 1994), 59 FR 59446 (November 17, 1994).

<sup>9</sup> Telephone conversation between Stephanie C. Mullins, Attorney, CBOE and David Sieradzki, Attorney, SEC on February 18, 1998.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

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

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> See Securities Exchange Act Release Nos. 24818 (August 19, 1987), 52 FR 31833; 25948 (July 27, 1988), 53 FR 29294; 30625 (April 23, 1992), 57 FR 18534; and 35649 (April 26, 1995), 60 FR 21576.