

Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 17, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, <http://www.nrc.gov/NRC/ADAMS/index.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1-800-397-4209, 301-415-4737 or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 20th day of August 2001.

For the Nuclear Regulatory Commission.

**Donna M. Skay,**

*Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44717; File No. SR-CBOE-2001-43]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Regarding Its Marketing Fee

August 16, 2001.

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 August 1, 2001, the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items the CBOE has prepared. 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 proposes to reduce the amount of its marketing fee from \$0.40 per contract to \$0.00. The text of the proposed rule change is available at the CBOE 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 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

In July 2000, the CBOE imposed a \$0.40 per contract marketing fee to collect funds to be used by the appropriate Designated Primary Market Maker ("DPM") to attract order flow to the CBOE.<sup>3</sup> The CBOE now proposes to reduce the amount of the marketing fee, effective August 1, 2001, to \$0.00 per

contract. The effect of this fee reduction is that the CBOE is suspending the assessment of the marketing fee. The CBOE is reserving the right to reinstate the marketing fee at a future date. Any reinstatement of the fee would be done pursuant to a rule filing with the Commission.<sup>4</sup>

The CBOE will continue to perform administrative functions under the current marketing fee program until all previously collected funds are distributed. The CBOE also will continue to pay interest on the funds in the DPM marketing fee accounts until these funds are distributed. Effective September 1, 2001, the CBOE also proposes to suspend the \$10,000 monthly fee that has been imposed to help cover expenses related to its administration of the marketing fee program.<sup>5</sup> The CBOE expects that this administrative fee will remain suspended until such time as the CBOE determines, if at all, to reinstate the marketing fee described above.<sup>6</sup>

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>7</sup> and furthers the objectives of Section 6(b)(4) of the Act<sup>8</sup> in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among CBOE members.

##### 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 not necessary or appropriate in furtherance of purposes of the Act.

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

The CBOE neither solicited nor received comments with respect to the proposed rule change.

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

Because the CBOE has designated the foregoing proposed rule change as a fee change pursuant to Section 19(b)(3)(A)

<sup>4</sup> The CBOE notes that if it were to reinstate the marketing fee, it could establish a per-contract fee different from the \$0.40 currently charged.

<sup>5</sup> See Securities Exchange Act Release No. 44469 (June 22, 2001) 66 FR 35301 (July 3, 2001) (File No. SR-CBOE-2001-25).

<sup>6</sup> The CBOE states that any decision to reinstate the administrative fee would be filed with the Commission as a rule change.

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 43112 (August 3, 2000) 65 FR 49040 (August 10, 2000) (File No. SR-CBOE-2000-28).

of the Act<sup>9</sup> and Rule 19b-4(f)(2) thereunder,<sup>10</sup> the proposal has become effective immediately upon filing with the Commission. At any time within 60 days after the filing of this proposed rule change, the Commission may summarily abrogate the 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

The Commission invites interested persons 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, N.W., Washington, D.C. 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR-CBOE-2001-43 and should be submitted by September 14, 2001.

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

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44719; File No. SR-DTC-2001-01]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Filing of Five Service Guides

August 17, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 24, 2001, 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 parties.

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

The proposed rule change consists of the implementation of five Service Guides, which constitute a restatement of certain sections of the Participant Operating Procedures ("POP") and Participant Terminal System ("PTS") Manual of DTC. Such sections are being retitled as Service Guides for DTC Custody, Dividend, Reorganization, Settlement, and Underwriting services.<sup>2</sup>

#### 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 these statements.<sup>3</sup>

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

DTC's POP constitutes procedures of DTC adopted pursuant to its Rule 27. It

is a hardcopy multivolume manual that, among other things, provides participants with procedures and information pertaining to a number of DTC services. DTC's PTS Manual, also a hardcopy multivolume manual, describes and documents each function (or user application) of PTS. It serves as a navigational tool or operational guide for authorized users.

DTC determined that both POP and the PTS Manual would better serve participants and other authorized users if they were restated together utilizing modern electronic media. As a result, DTC is developing Service Guides to replace all POP and PTS documentation.

With this proposed rule filing, DTC is filing Service Guides for the following DTC services; Custody, Dividend, Reorganization, Settlement, and Underwriting. DTC intends to file additional Service Guides with the Commission when they are completed. Existing sections of POP and PTS documentation will remain in effect only until such time as they are restated as Service Guides. No substantive changes in the procedures of DTC are being made at this time.

Service Guides are currently organized into four sections:

1. *Using This Guide* contains copyright and disclaimer information plus information on document conventions and the structure and organization of the Service Guide. The language in this section is the same for all Service Guides regardless of service.

2. *About DTC's [Service Name] Guide* is a restatement of POP and contains product overviews, definitions, important dates, and legal information. It has links to the various PTS functions used by the particular service. (See Section 4 below.)

3. *About the Participant Terminal System* provides general PTS overview information such as directions about the use of passwords, logging on and off, and common function keys. The language in this section is the same for all Service Guides regardless of service.

4. *[Service Name] Functions* is a restatement of the PTS Manual. It provides information for each PTS function, including step-by-step PTS procedures together with screen and field definitions. The "Functions" and "About" sections of every Service Guide are linked.

The five Service Guides will be implemented upon filing and are available to participants and other authorized users via CD ROM (which is comprised of current Service Guide, POP, and PTS Manual information) and the Internet at DTC's web site: <http://>

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

<sup>2</sup> A copy of the text of DTC's proposed rule change and the attached exhibit are available at the Commission's Public Reference Section or through DTC.

<sup>3</sup> The Commission has modified the text of the summaries prepared by DTC.

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

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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