

The Commission notes that the current proposal applies solely to the PDRs or Index Fund Shares and the corresponding index options specified in the proposal. If the Amex intends to allow additional PDRs or Index Fund Shares to serve as cover for short positions in options on other indexes, the Amex must file a proposed rule change pursuant to Section 19(b)(1) of the Act and Rule 19b-4 thereunder to adopt the additional offsets.

The commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 3 strengthens the proposal by clarifying the language of the proposed rule change and by providing that specified PDRs or Index Fund Shares may serve as cover for short positions in options on the index that the PDR or Index Fund Share is designed to replicate. Accordingly, the Commission believes that granting accelerated approval of Amendment No. 3 is appropriate and consistent with Sections 6(b)(5) and 10(b)(2) of the Act.²⁷

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 including whether Amendment No. 3 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 the filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-98-33 and should be submitted by April 28, 2000.

not be greater than the exercise price in the case of a call or less than the current market price in the case of a put and the required margin shall be increased by an unrealized loss on the short security position.

²⁷ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁸ that the proposed rule change (SR-Amex-98-33), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42596; File No. SR-CBOE-00-09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Extending for Six Months the Rapid Opening System ("ROS") Pilot Program

March 30, 2000.

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 March 22, 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 requests an extension through September 30, 2000, of a pilot program established in Exchange Rule 6.2A, which governs the operation of, and the eligibility to participate in, the Exchange's Rapid Opening System.³ The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

²⁸ 15 U.S.C. 78s(b)(2).

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The pilot program was first approved by the Commission effective February 9, 1999 through March 31, 2000. See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999.)

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 Exchange proposes to extend for six months the Rapid Opening System ("ROS") pilot program.⁴ Before the implementation of ROS, a trading crowd on CBOE arrived at the opening price by manually progressing through series after series of an options class. Open trading for any of the class' series could not commence until all series in the class had undergone the process.⁵ ROS allows the Exchange to automate the opening of its various option classes, thereby avoiding the lengthier opening rotations that can occur under circumstances when there is a large influx of orders entered before or during the opening rotation. As the opening occurs, fill reports on all participating orders are generated automatically, opening market quotes and last sales will be disseminated, and market-makers will receive notification of assigned trades. In addition, as part of the pilot, the Exchange has developed a manual procedure for incorporating orders currently not included on CBOE's Electronic Book, known as non-bookable orders,⁶ into the opening process.⁷

The CBOE represents that its experience with ROS over the past year has been positive. Member firms have

⁴ *Id.*

⁵ *Id.*

⁶ Telephone conversation between Tim Thompson, Director of Regulatory Affairs, CBOE, and Terri Evans, Special Counsel, Division of Market Regulation ("Division"), SEC, March 28, 2000 (clarifying the definition of non-bookable orders and the manual entry of such orders).

⁷ The Pacific Exchange, Inc. ("PCX") has adopted a similar procedure for manually handling non-bookable orders in connection with the use of the PCX's Automated Opening Rotation system. See Securities Exchange Act Release No. 41970 (September 30, 1999), 64 FR 54713 (October 7, 1999).

told CBOE that they appreciate how ROS enables the Exchange to enter into opening trading much sooner, allowing them to represent their customer orders in open outcry. The Exchange believes that ROS has prevented large numbers of orders from queuing on the Exchange's book and "live ammo" screens immediately after the opening, thus providing Designated Primary Market-Maker ("DPM") staff with the ability to handle orders in a more expeditious manner. The Exchange further represents that trading crowds have been able to open classes using ROS within seconds of the dissemination of the opening part in the underlying security.

The Exchange also believes that the current procedure for manually incorporating non-bookable orders has been adequate to provide these orders with the executions that they deserve on the opening. In fact, the Exchange has observed that many firms currently choose to wait until after the opening has been completed to represent their orders because of the short time needed to complete a ROS opening and because the firms have a better sense of where they may trade the order after the opening and after opening quotes have been disseminated. The Exchange represents, however, that it will continue to explore possibilities for including non-bookable orders⁸ into ROS in an automated fashion. The Exchange is actively studying the possibility of changing its book to allow for the inclusion of non-bookable orders,⁹ at least at the opening. These changes to the Exchange's book would allow ROS to electronically accommodate non-bookable orders.¹⁰

In the Commission's approval order of the ROS system, the Commission requested the Exchange to study issues related to the SEC's concerns during the pilot period and to report back to the Commission at least sixty days prior to seeking permanent approval of ROS.¹¹ The Exchange is now preparing a report to the Commission and will seek permanent approval of ROS in the next couple of months. In the meantime, the extension of the pilot period will allow the Exchange to continue to utilize ROS.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act¹² in general and furthers the objectives of Section 6(b)(5)¹³ 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

CBOE 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

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 has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder because the proposal: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing the proposed rule change as required by Rule 19b-4(f)(6).

A proposed rule change filed under Rule 19b-4(f)(16)¹⁶ normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹⁷ permits the Commission to designate such shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission designate such shorter time period so that the proposed rule change may become operative no later than March 31, 2000. The immediate effectiveness would allow the current

ROS pilot program to continue uninterrupted, while allowing the Exchange the opportunity to prepare a report for the Commission prior to seeking permanent approval.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately upon filing for the following reasons. The proposed rule change extends the expiration date of the ROS pilot program from March 31, 2000, to September 30, 2000. An extension would allow the Exchange to continue to offer ROS without interruption and provide the Exchange more time to complete its review and evaluation of the ROS pilot program.¹⁸ The Commission notes that the CBOE's filing was also the subject of prior notice and comment when it was first proposed over a year ago.

Among the issues that the Commission expects the CBOE to explore in its report are: how and when market-makers set ROS risk and size thresholds; how often such thresholds are exceeded and result in the adjustment of AutoQuote; the effect of AutoQuote adjustments on the quality of customer executions; any effects on existing order execution priority; and the handling of an adjustments made for non-bookable orders.¹⁹ The Commission also expects that the Exchange will provide a workable plan for the electronic incorporation of non-bookable orders on ROS.²⁰

Based on the above reasons, the Commission believes it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately upon the date of filing, March 22, 2000. 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.²¹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

¹⁸ Further, the Commission approved a similar system proposed by the PCX on a pilot basis until September 30, 2000. See Securities Exchange Act Release No. 41970, *supra* note 7.

¹⁹ See Securities Exchange Act Release No. 41033, *supra* note 3.

²⁰ *Id.*

²¹ In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ Telephone conversation between Tim Thompson, Director of Regulatory Affairs, CBOE, and Terri Evans, Special Counsel, Division, SEC, March 28, 2000.

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ *Id.*

¹⁷ 17 CFR 240.19b-4(f)(6)(iii)

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-CBOE-00-09 and should be submitted by April 28, 2000.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.²²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42597; File No. SR-DTC-99-26]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Enhancement of Custody Reorganization and Redemption Services

March 30, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 27, 1999, 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.

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

The proposed rule change would implement the short-term redemption service as an ancillary service of the custody reorganization and redemption service.

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.²

(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 implement the short-term redemption service. The short-term redemption service will enhance the custody reorganization and redemption services, which are a part of DTC's custody service. DTC believes that the proposed rule change will provide its participants with additional flexibility in their use of the custody reorganization and redemption services.³

The short-term redemption service will be available for the following instruments as they are handled within the custody reorganization and redemption services: certificated bankers acceptances, municipal variable-rate demand obligations issued in commercial paper mode, institutional certificates of deposit, and other instruments held in custody which must be presented to the paying agent on, but not before, the scheduled payable date with the agent making payment of principal or income proceeds later that same afternoon, which is too late for processing through DTC's settlement system. Some instruments may also have certificates with different payable dates identified by the same CUSIP number.

Under the short-term redemption service, the payable date and other relevant payment details are captured at

the certificate level by DTC when the eligible instruments are deposited into custody. A short-term redemption payment projection report detailing instruments with payable dates within the next five business days is produced daily and forwarded to the participant. It is the participant's responsibility to verify the completeness and accuracy of this report and to immediately notify DTC of any discrepancies (e.g., a security payable within the next five days is not shown on the report or an incorrect paying agent name or address is shown on the report). Securities shown on the projection report are automatically routed by DTC to the short-term redemption prep box. DTC then arranges for the securities to be delivered to the paying agent on the payable date. The securities are accompanied by a letter of transmittal instructing the agent to wire the proceeds directly to the bank account designated by the participant for this purpose. It is the participant's responsibility to follow-up with the agent to ensure timely payment and reconcile any payment discrepancies.

The fee per item for this enhanced service is \$32.25, which fee is an aggregate of several custody service fees previously filed with DTC's 1999 fee schedule.⁴

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁵ and the rules and regulations thereunder because the proposal will give participants greater flexibility in use of the custody reorganization and redemption services. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since the operation of the custody reorganization and redemption services, as modified by the proposed rule change, will be similar to the current operation of the function.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

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

The proposed rule change has been developed through discussions with several participants. Written comments

²² The Commission has modified the text of the summaries prepared by DTC.

³ Securities Exchange Act Release No. 37314 (June 21, 1996), 61 FR 31989.

⁴ Securities Exchange Act Release No. 41508 (June 17, 1999), 64 FR 32574.

⁵ 15 U.S.C. 78q-1.

²² 17 CFR 200.30-3(a)(12)

¹ 15 U.S.C. 78s(b)(1).