

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2011-164 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NASDAQ-2011-164. This file number should be included on the subject line if email 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 Commission's 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-NASDAQ-2011-164 and should be submitted on or before December 29, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65872; File No. SR-CBOE-2011-113]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Trades for Less Than \$1**

December 2, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 29, 2011, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 is proposing to extend its program that allows transactions to take place at a price that is below \$1 per option contract through June 29, 2012. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal>), at the Exchange's Office of the Secretary 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 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 those 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 parts of such statements.

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

##### **1. Purpose**

An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with the Exchange Rules, except as provided in Exchange Rule 6.54, *Accommodation Liquidations (Cabinet Trades)*, which sets forth specific procedures for engaging in cabinet trades. Rule 6.54 currently provides for cabinet transactions to occur via open outcry at a cabinet price of \$1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of \$1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market-Maker or provided in response to a request by a PAR Official/OBO, a Floor Broker or a Market-Maker, but must yield priority to all resting orders in the PAR Official/OBO cabinet book (which resting cabinet book orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at \$1 per option contract.

The Exchange has temporarily amended the procedures through December 30, 2011 to allow transactions to take place in open outcry at a price of at least \$0 but less than \$1 per option contract.<sup>5</sup> These lower priced transactions are traded pursuant to the same procedures applicable to \$1 cabinet trades, except that (i) Bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also available for trading in option

<sup>5</sup> See Securities Exchange Act Release Nos. 59188 (December 30, 2008), 74 FR 480 (January 6, 2009) (SR-CBOE-2008-133) (adopting the amended procedures on a temporary basis through January 30, 2009), 59331 (January 30, 2009), 74 FR 6333 (February 6, 2009) (extending the amended procedures on a temporary basis through May 29, 2009), 60020 (June 1, 2009), 74 FR 27220 (June 8, 2009) (SR-CBOE-2009-034) (extending the amended procedures on a temporary basis through June 1, 2010), 62192 (May 28, 2010), 75 FR 31828 (June 4, 2010) (SR-CBOE-2010-052) (extending the amended procedures on a temporary basis through June 1, 2011) and 64403 (May 4, 2011), 76 FR 27110 (May 10, 2011) (SR-CBOE-2011-048) (extending the amended procedures on a temporary basis through December 30, 2011).

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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

classes participating in the Penny Pilot Program.<sup>6</sup> The Exchange believes that allowing a price of at least \$0 but less than \$1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly due to market conditions which may result in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of \$100 and the underlying stock might now be trading at \$30. In such an instance, there might not otherwise be a market for that person to close-out the position even at the \$1 cabinet price (e.g., the series might be quoted no bid).<sup>7</sup>

The purpose of the instant rule change is to extend the operation of these temporary procedures through June 29, 2012, so that the procedures can continue without interruption while CBOE considers whether to seek permanent approval of the temporary procedures.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act<sup>8</sup> and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>9</sup> Specifically, the Exchange believes the

proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for liquidations at a price less than \$1 per option contract better facilitates the closing of options positions that are worthless or not actively trading.

### *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 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*

The Exchange neither solicited nor received comments on the proposal.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup> At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2011-113 on the subject line.

### *Paper Comments*

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

All submissions should refer to File Number SR-CBOE-2011-113. This file number should be included on the subject line if email 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 Commission's 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. 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-2011-113 and should be submitted on or before December 29, 2011.

<sup>6</sup> Currently the \$1 cabinet trading procedures are limited to options classes traded in \$0.05 or \$0.10 standard increment. The \$1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier). Because the temporary procedures allow trading below \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier), the procedures are available for all classes, including those classes participating in the Penny Pilot Program.

<sup>7</sup> As with other accommodation liquidations under Rule 6.54, transactions that occur for less than \$1 are not be [sic] disseminated to the public on the consolidated tape. In addition, as with other accommodation liquidations under Rule 6.54, the transactions are exempt from the Consolidated Options Audit Trail ("COATS") requirements of Exchange Rule 6.24, *Required Order Information*. However, the Exchange maintains quotation, order and transaction information for the transactions in the same format as the COATS data is maintained. In this regard, all transactions for less than \$1 must be reported to the Exchange following the close of each business day. The rule also provides that transactions for less than \$1 will be reported for clearing utilizing forms, formats and procedures established by the Exchange from time to time. In this regard, the Exchange initially intends to have clearing firms directly report the transactions to the Options Clearing Corporation ("OCC") using OCC's position adjustment/transfer procedures. This manner of reporting transactions for clearing is similar to the procedure that CBOE currently employs for on-floor position transfer packages executed pursuant to Exchange Rule 6.49A, *Transfer of Positions*.

<sup>8</sup> 15 U.S.C. 78s(b)(1).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2011-31480 Filed 12-7-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65871; File No. SR-DTC-2011-09]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Modify a Practice in Order To Mitigate Systemic Risk, Specifically Liquidity Related, Associated With DTC End of Day Net Funds Settlement

December 2, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder notice is hereby given that on November 21, 2011, 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

As more fully set forth below, the proposed change DTC is proposing to temporarily reduce each Participant's maximum net debit cap for night cycle processing of valued transactions over weekends and holidays and to restore such debit cap at the start of day cycle processing for the next settlement date (*i.e.*, the first business day following the weekend or holiday).

#### 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 Corporation 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 Corporation 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

(i) Under the proposed change, DTC would temporarily reduce each Participant's maximum net debit cap for night cycle processing<sup>3</sup> of valued transactions over weekends and holidays and would restore such debit cap at the start of day cycle processing for the next settlement date (*i.e.*, the first business day following the weekend or holiday). In doing so, DTC believes it would reduce the systemic risk associated with a liquidity shortfall and would enhance the safety and soundness of the U.S. settlement system.

#### Background on DTC Settlement and the Net Debit Cap Control

DTC's Settlement System is structured so that Participants may make intraday book-entry deliveries versus payment of securities held in their DTC accounts. These transfers generate debits to the settlement account of each receiving Participant and credits to the settlement account of each delivering Participant. As debits and credits of multiple transactions net over the course of the business day a Participant will have either a net debit balance or net credit balance from time to time and at settlement will be in either a net debit or net credit balance position. Participants having a net debit balance for settlement owe payments of the amount of the net debit to DTC. In order that DTC has the resources to achieve end-of-day settlement among non-defaulting Participants, DTC maintains liquidity resources sufficient to complete settlement, notwithstanding the failure of its largest Participant to pay, by covering the net debit balance of a defaulting Participant. The key risk management control in this process is the net debit cap, which limits the net debit balance of a Participant, intraday and at settlement, to available liquidity resources. (The net debit balance must also be collateralized by sufficient collateral measured by the collateral monitor risk control.) DTC assigns a net debit cap to each Participant based on

the Participant's activity and currently limits the maximum net debit cap for a Participant to \$1.8 billion and for a family of related Participants to \$3 billion aggregate.<sup>4</sup> This settlement structure is designed to support the efficient recycling of intraday liquidity to facilitate the settlement of transactions while limiting systemic risk due to Participant failure.

With Friday night cycle processing over weekends and holidays, however, Participants may accrue net debit balances for end-of-day settlement on the next business day, which is two to three calendar days away from the actual settlement. DTC has recognized that during such extended processing, external credit events may occur, including, in particular, the possibility of a weekend insolvency.

#### Change in Night Cycle Processing

To address the liquidity risk<sup>5</sup> over the extended periods for weekends and holidays, DTC is proposing to reduce the maximum net debit cap temporarily over the extended period for any Participant or any family of related Participants to \$1.5 billion at the open of night cycle processing on any DTC business day for which the succeeding calendar day is not a business day. DTC would then restore the net debit cap of any affected Participant to its full net debit cap at the open of day cycle processing for the next business day in the ordinary course of business.<sup>6</sup>

#### Risk Reduction and Anticipated Minimal Settlement System and Participant Impact

The purpose of this proposed change in processing practice is to minimize systemic risk to U.S. markets and to DTC Participants as well as to minimize direct liquidity risk to DTC by the

<sup>4</sup> These net debit caps are supported by \$3.2 billion of liquidity resources at DTC in the form of a \$1.3 billion all-cash Participants Fund and a \$1.9 billion committed line of credit available for settlement in the event that a Participant fails to pay its net debit balance at settlement.

<sup>5</sup> "Liquidity risk" refers to the financial risk associated with access to liquidity to cover the failure of a Participant to fund its net settlement obligation to DTC.

<sup>6</sup> Today, DTC may reduce a Participant's net debit cap (*see, e.g.*, DTC Rule 1, definition of Net Debit Cap which permits DTC to set the Net Debit Cap of a Participant at "any other amount determined by [DTC], in its sole discretion."). Accordingly, after a temporary weekend or holiday reduction as proposed herein, DTC may elect not to restore the net debit cap of any affected Participant. By way of example only, and in line with the purpose of this proposed change in practice, DTC would not expect to restore the net debit cap of a Participant that had become insolvent in the intervening non-business days or as to which DTC is concerned with its credit status. (DTC would take the same approach to holidays, that is, whenever two business days are not successive.)

<sup>13</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> DTC processes settlement in two cycles per business day: (i) A night cycle that begins at approximately 9 p.m. and finishes at approximately 11:30 p.m. and (ii) a day cycle that begins at approximately 3 a.m. and completes at 3:30 p.m. For Monday settlement, the night cycle begins on the preceding Friday evening at 9 p.m. and ends at 11:30 p.m. that night; the day cycle does not begin until 3 a.m. on Monday.