

The Issuer states that it is taking such action because the Issuer believes that listing its Security on the New York Stock Exchange, Inc. ("NYSE") will provide greater liquidity and visibility. The Issuer states that trading in its Security on the NYSE became effective on June 11, 2003.

The Issuer's application relates solely to the withdrawal of the Securities from listing on the Amex and from registration under section 12(b) of the Act³ shall not affect its obligation to be registered under section 12(g) of the Act.⁴

Any interested person may, on or before July 8, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48038; File No. SR-CBOE-2003-15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated To Amend Rule 17.2 of Its Disciplinary Rules Concerning the Initiation of Investigations of Possible Violations Within the Disciplinary Jurisdiction of the Exchange

June 16, 2003.

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 April 7, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") 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 by the CBOE. The CBOE filed Amendment No. 1 on May 30, 2003.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The CBOE proposes to amend Rule 17.2 of its Disciplinary Rules concerning the initiation of investigations of possible violations within the disciplinary jurisdiction of the Exchange.

Below is the text of the proposed rule change, as amended. Proposed new language is *italicized* and proposed deletions are in brackets.

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Chicago Board Options Exchange, Incorporated Rules

Chapter XVII—Discipline (Rules 17.1–17.50)

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Rule 17.2 Complaint and Investigation

(a) Initiation of Investigation. The Exchange shall investigate possible violations within the disciplinary jurisdiction of the Exchange upon order of the Board, the Business Conduct Committee, the President or other Exchange officials designated by the President, *or whenever there is a reasonable basis for the Exchange to do so.* [or] *The Exchange shall also investigate possible violations within the disciplinary jurisdiction of the Exchange upon receipt of a complaint, written or oral, alleging such violations [filed] made by a member or by any other person alleging injury as a result of such violations (the "Complainant"), provided such complaint.* All complaints shall be in writing signed by the Complainant and shall specify[y] in reasonable detail the facts constituting the violation[, including the specific statutes, by-laws, rules, interpretations or resolutions allegedly violated].

³ See letter from J. Patrick Sexon, Assistant General Counsel, CBOE, to Sapna C. Patel, Attorney, Division of Market Regulation, Commission, dated May 29, 2003 ("Amendment No. 1"). In Amendment No. 1, the CBOE: (1) stated that the Exchange's Board of Directors approved the proposed rule change on May 7, 2003; (2) represented that the Exchange's Regulatory Services Division maintains and will continue to maintain a log of all oral complaints that it receives alleging possible violations within the disciplinary jurisdiction of the Exchange; and (3) made a technical clarification to the proposed rule text.

(b)–(d) No change.

* * * Interpretations and Policies:

.01–.02 No change.

.03 *To assist the Exchange in investigating possible violations within its disciplinary jurisdiction, Complainants should sign written complaints or identify themselves when making oral complaints pursuant to paragraph (a) of this Rule, and also identify the specific statutes, by-laws, rules, interpretations or resolutions that allegedly were violated.*

* * * * *

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

1. Purpose

Exchange Rule 17.2(a) describes the basis on which the Exchange initiates investigations of possible violations within the disciplinary jurisdiction of the Exchange. Specifically, paragraph (a) of Exchange Rule 17.2 states that the Exchange shall investigate possible violations within the disciplinary jurisdiction of the Exchange upon order of the Board, the Business Conduct Committee ("BCC"), the President or other Exchange officials designated by the President. Exchange Rule 17.2(a) also provides that the Exchange shall investigate possible violations within the disciplinary jurisdiction of the Exchange upon receipt of a complaint alleging such violations filed by a member or any other person alleging injury as a result of such violations. Exchange Rule 17.2(a) states that all complaints should be in writing signed by the complainant and shall specify in reasonable detail the facts constituting the violation, including the specific statutes, by-laws, rules, interpretations or resolutions allegedly violated.

The Exchange proposes to amend paragraph (a) of Exchange Rule 17.2 to clarify and make express in the rule the basis on which the Exchange represents

³ 15 U.S.C. 78j(b).

⁴ 15 U.S.C. 78j(g).

⁵ 17 CFR 200.30-3(a)(1).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

that it has historically initiated investigations of possible wrongdoing within its disciplinary jurisdiction.

First, the Exchange proposes to amend Exchange Rule 17.2(a) to make express what it represents is the Exchange's Regulatory Division's longstanding practice of initiating investigations of possible rule violations on its own whenever there is a reasonable basis to do so. For instance, among the reasons the Exchange's Regulatory Division may determine that there is a reasonable basis to initiate an investigation are: Results from the automated surveillance programs that the Regulatory Division operates that are designed to highlight particular types of misconduct, observations of the Regulatory Division's Trading Floor Liaison unit that has a consistent presence on the trading floor, regulatory referrals from Exchange committees or other self-regulatory organizations, and oral complaints from members or customers. The Exchange believes that the current language of Exchange Rule 17.2(a) could be read to suggest that the Exchange's Regulatory Division should only initiate investigations upon the order of the Board of Directors, the BCC, the President, or upon receipt of a written complaint. Although the CBOE represents that it has never interpreted Exchange Rule 17.2(a) in such a limited fashion, and believes such a reading would be inconsistent with the Exchange's obligations as a self-regulatory organization under the Act,⁴ the Exchange believes amending Exchange Rule 17.2 is appropriate.

Second, the Exchange proposes to amend Exchange Rule 17.2(a) to provide that the Exchange shall investigate possible violations within its disciplinary jurisdiction upon receipt of a complaint, whether the complaint is written or oral, provided such complaint specifies in reasonable detail the facts constituting the alleged violation. The Exchange also proposes to add an interpretation to Exchange Rule 17.2 stating that, to assist the Exchange in investigating possible violations within its disciplinary jurisdiction, complainants should identify themselves when making a complaint, whether written or oral, and

⁴ For instance, the CBOE represents that the Act states that a self-regulatory organization ("SRO") is required to be organized so that it is able to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the SRO's own rules (section 6(b)(1) of the Act), and further that an SRO's rules must be "designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade," and in general "to protect investors and the public interest" (section 6(b)(5) of the Act).

identify the specific statutes, by-laws, rules, interpretations or resolutions that allegedly have been violated. In addition, the Exchange represents that its Regulatory Services Division currently maintains, and will continue to maintain, a log of all oral complaints that it receives alleging possible violations within the disciplinary jurisdiction of the Exchange.⁵

The Exchange believes that this proposed change to Exchange Rule 17.2 is consistent with its longstanding practice of considering whether to investigate complaints, whether oral or written, and is consistent with its practice of requesting, but not requiring, that complainants identify themselves and identify the specific statutes, by-laws, rules, interpretations or resolutions that allegedly have been violated.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with the provisions of section 6(b) of the Act,⁶ in general, and specifically furthers the objectives of sections 6(b)(1),⁷ 6(b)(5),⁸ 6(b)(6),⁹ and 6(b)(7)¹⁰ of the Act, in particular, in that it will enhance the ability of the Exchange to enforce compliance by its members and persons associated with its members with provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. It will help ensure that members and persons associated with members are appropriately disciplined when they violate those provisions.

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 the purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal**

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 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 File No. SR-CBOE-2003-15 and should be submitted by July 14, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48008; File No. SR-DTC-2002-08]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Unitary Action Procedures

June 10, 2003.

On June 13, 2002, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change

⁵ See Amendment No. 1, *supra* note .

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(1).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(6).

¹⁰ 15 U.S.C. 78f(b)(7).

¹¹ 17 CFR 200.30-3(a)(12).