

interest rate in the case of interest-bearing notes), including any commissions, will not be in excess of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for commercial paper of comparable quality of the particular maturity sold by issuers to commercial paper dealers.

Gulf states that it will pay a commission not to exceed 1/8 of 1% per annum payable to the Dealer in respect of Commercial Paper sold through the Dealer as principal. Gulf states that the Dealer will reoffer the commercial paper at a discount rate of up to 1/8 of 1% per annum less than the prevailing interest rate to Gulf or at an equivalent cost if sold on an interest-bearing basis.

By order dated December 13, 1996, (HCAR No. 26628) ("Short-Term Borrowings Order"), Gulf has authority to effect short-term borrowings, include bank borrowings and the issuance of commercial paper, in an amount not to exceed \$300,000,000 prior to January 1, 2004.

Additionally, by order dated November 8, 2000 (HCAR No. 27273) ("Consolidated Commercial Paper Order"), Gulf states that it has authority to effect short-term borrowings in which Gulf is not the issuer. Gulf states that the Consolidated Commercial Paper Order authorizes Gulf to effect short-term borrowings through a Southern consolidated commercial paper program in an amount not to exceed \$300,000,000 through June 30, 2004. The Consolidated Commercial Paper Order authorized a Southern subsidiary ("Issuer") to issue commercial paper for the benefit of Gulf and other Southern utility subsidiaries, Georgia Power Company, Mississippi Power Company, Savannah Electric and Power Company, Alabama Power Company, and Southern Electric Generating Company ("Participants"). Each Participant borrows the proceeds from the sale of commercial paper by the Issuer for that Participant's benefit. Gulf states that it is authorized to borrow up to \$300,000,000 outstanding principal amount at any time from the Issuer under the Consolidated Commercial Paper Order.

According to terms of the Short-Term Borrowings Order and the Consolidated Commercial Paper Order, any borrowings under each order must be aggregated and may not exceed the \$300,000,000 aggregate principal amount authorized by the Short-Term Borrowings Order. At September 30, 2003, Gulf states that it did not have any borrowings outstanding under either authorization.

Gulf now requests to increase its short-term borrowings authority from an aggregate principal amount of \$300,000,000 to \$600,000,000. Gulf proposes that the authorization sought in this Declaration would supersede and replace the authorization in the Short-Term Borrowings Order effective immediately upon the date of the Commission's order in connection with this Declaration but would not supercede the authorization in the Consolidated Commercial Paper Order. Gulf expects that a new filing requesting authority to continue the Southern consolidated commercial paper program ("Expected Filing") will be filed prior to the expiration of the authorization in the Consolidated Commercial Paper Order. Gulf states that this filing will include \$600,000,000 aggregate principal amount of borrowings for the benefit of Gulf, which will correspond to the amount sought in this Declaration.

Gulf requests that any borrowings entered into under authority granted in this Declaration and those entered into under the authority granted in the Consolidated Commercial Paper Order be aggregated and may not exceed the \$600,000,000 aggregate principal amount. Gulf requests that at all times when the order in connection with this Declaration is in effect, Gulf will have short-term borrowings authorization in an amount not to exceed \$600,000,000 aggregate principal amount.

Gulf states that proceeds from the proposed borrowings will be used for working capital purposes, including the financing in part of its construction program. Except as may be otherwise authorized by the Commission, Gulf states that any short-term or term-loan borrowings of Gulf outstanding after June 30, 2007 and June 30, 2014, respectively, will be retired from internal cash resources, the proceeds of equity financings or the proceeds of short or long-term debt.

Gulf represents that it will maintain its common equity as a percentage of capitalization (inclusive of short-term debt) at no less than thirty percent. Gulf will not issue any securities under authority from this Declaration, unless upon original issuance thereof: (i) The securities, if rated, are rated at least investment grade, (ii) all outstanding securities of Gulf that are rated are rated investment grade, and (iii) all outstanding securities of Southern that are rated are rated investment grade. For purposes of this provision, any security will be deemed to be rated "investment grade" if it is rated investment grade by at least one nationally recognized statistical rating organization, as defined

in paragraphs (c)(2)(vi)(E), (F) and (H) of Rule 15c3-1 under the Securities Exchange Act of 1934, as amended. Gulf requests that it be permitted to issue a security that does not satisfy the foregoing condition if the requirements of rule 52(a)(i) and rule 52(a)(iii) are met and the issue and sale of the security have been expressly authorized by the Florida Public Service Commission. Gulf hereby requests that the Commission reserve jurisdiction over the issuance of any securities at any time that the conditions set forth above are not satisfied.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48797; File No. SR-CBOE-2003-49]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Time Periods Within the Membership Process

November 17, 2003.

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 October 21, 2003, the Chicago Board Options Exchange, Incorporated ("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 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 change the time periods (i) after which an individual's inactive nominee status will be terminated and (ii) during which a former individual member may reapply for membership through the renewal/change of status application process.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

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

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

## 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 for 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, the Proposed Rule Change

#### 1. Purpose

CBOE Rule 3.8(g) provides that a member organization may designate one or more inactive nominees. An inactive nominee is an individual who is eligible to become an effective nominee of a member organization with respect to any membership for which the organization is either an owner (and not a lessor) or is a lessee. In order to become an inactive nominee of a member organization, an individual must be approved for membership and become an effective nominee of the member organization, with authorized floor functions, within 90 days of the approval for membership. An inactive nominee has no rights or privileges of membership and no right of access to the Exchange's trading floor, unless and until the inactive nominee becomes an effective member. Additionally, Rule 3.8(g)(iv) provides that if at any time an individual remains an inactive nominee for 6 consecutive months, the individual's eligibility for membership is terminated and the individual must reapply for membership in order to again become eligible for inactive nominee status.

The Exchange proposes to extend the time period under Rule 3.8(g)(iv) by 3 months. Specifically, the Exchange proposes to amend Rule 3.8(g)(iv) to provide that an individual's inactive nominee status will terminate if at any time an individual remains an inactive nominee for 9 consecutive months. The Exchange believes this change will improve the efficiency of the Exchange's membership processes in that individuals will have a longer period of time during which they may remain inactive nominees before they are required to go through a membership application process.

Similarly, in order to further improve the efficiency of the Exchange's

membership processes, the Exchange proposes to change the time period during which a former individual member may reapply for membership through the renewal/change of status application process. As with the inactive nominee termination period, the time period during which a former individual member may reapply for membership through the renewal/change of status application process is proposed to be extended from the current 6 month period following termination from membership to 9 months following membership termination. The foregoing change would be reflected in three ways in CBOE rules.

First, CBOE Rule 3.9(e) would be amended to provide that a posting period will not be applicable when an applicant has been a member within 9 months prior to the date of receipt of the applicant's membership application by the Membership Department. Currently, the name of an applicant and the application request are published in the Exchange Bulletin and posted on the Exchange Bulletin Board for 10 days if the applicant has not been a member within 6 months prior to submission of the application. This is the case because applicants that go through the renewal/change of status application process do not have a posting period. Accordingly, the time period under Rule 3.9(e) in which a former member is not subject to a posting period is also proposed to be changed to 9 months from membership termination in order to correspond to the new proposed time period during which a former member may reapply for membership through the renewal/change of status application process.

Second, Rule 3.9(f) would be amended to provide that applicants are not required to be investigated by the Exchange if the applicant was a member within 9 months (instead of the current 6 months) prior to submission of that applicant's membership application or if the applicant was investigated by the Membership Department within 9 months (instead of the current 6 months) prior to submission of the application. This maintains the current procedure under which applicants that go through the renewal/change of status application process are not investigated by the Membership Department. However, the Membership Department would retain its current authority under Rule 3.9(f) to investigate any applicant that is not required to be investigated. Additionally, membership applicants that go through the renewal/change of status application process will continue to have their fingerprints submitted to the Attorney General of the United

States or its designee in connection with the application.

Third, the Exchange's Membership Fee Circular would be amended to provide that the Renewal/Change of Status application fee would apply to a former individual member who reapplies for membership within 9 months (instead of the current 6 months) of his/her membership termination date and who becomes an effective member within 1 year of his/her membership termination date. Under the amended Membership Fee Circular, a former individual member who reapplies for membership within 9 months of termination from membership would be assessed the Renewal/Change of Status fee at the time of submission of the application. If that person becomes an effective member more than 1 year after his/her membership termination date, the person would then be charged an additional fee equal to the difference between the Individual/Nominee/CBOT Exerciser/Lessee/Lessor application fee and the Renewal/Change of Status fee.

The reason that an additional fee will be assessed if a former member reapplies for membership within 9 months of membership termination and then does not become an effective member within 1 year after membership termination is to discourage applicants from taking advantage of the lower Renewal/Change of Status fee and then not following through on the application or their membership approval on a timely basis. Rule 3.9(l) provides that if the membership application process is not completed within 6 months of the submission of a membership application, the application shall be deemed to be automatically withdrawn. Rule 3.10 provides that an applicant approved for membership must become effective in that status within 90 days of the approval for that status (except that an applicant approved as a lessor may become effective in that status within 6 months of approval). Therefore, it is conceivable that an applicant could request that the Membership Department defer action on a membership application for up to 6 months after it is submitted and then not become an effective member following membership approval for another 3 months (or another 6 months in the case of a lessor). The Exchange does not believe the Renewal/Change of Status fee should apply to such situations (for example, where an individual takes advantage of the Renewal/Change of Status fee and then does not become an effective member again until 18 months after termination

from membership) because the time frame between membership termination and becoming an effective member again in those situations is beyond the time period to which the Renewal/Change of Status fee is intended to apply.

Additionally, it should be noted that, irrespective of the changes proposed by this rule filing, CBOE Rule 3.9(g) will remain applicable. Rule 3.9(g) provides, in pertinent part, that any person who does not possess an authorized floor function for more than 1 year is required to re-attend the Exchange's New Member Orientation Program and to re-pass the Floor Member Qualification Exam in order to once again become eligible to have an authorized floor function. Retention of this requirement will ensure that former members that have not had an authorized floor function for an extended period of time will go through the Exchange's floor member orientation class again and will be required to pass the related Exchange exam.

## 2. Statutory Basis

The proposed rule change will improve the efficiency of the Exchange's membership application processes. Accordingly, the proposed rule change is consistent with Section 6(b) of the Act,<sup>3</sup> in general, and further the objectives of Section 6(b)(5)<sup>4</sup> in particular, in that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market while maintaining other current Exchange rules and procedures that are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

### *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 self-regulatory organization 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 proposal 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-2003-49 and should be submitted by December 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48773; File No. SR-DTC-2003-13]

### **Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Termination of the DALI Tax Service**

November 12, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 2, 2003, The Depository Trust Company filed a proposed rule change with the Securities and Exchange Commission and on October 30, 2003, amended its 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 will terminate DTC's Data Link for Intermediaries ("DALI") tax 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 such statements.<sup>2</sup>

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

The proposed rule change will terminate DTC's DALI tax service effective December 31, 2003. DALI is a communications hub that allows financial institutions (typically, a U.S. paying institution acting as a U.S. withholding agent and its foreign customer payee) to exchange the data necessary to determine correct withholding and reporting of U.S. tax on

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by DTC.

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

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 17 CFR 200.30-3(a)(12).