

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

Jonathan G. Katz,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44710; File No. SR-CBOE-2001-45]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Exercise Prices for FLEX Equity Options

August 16, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 there under,<sup>2</sup> notice is hereby given that on August 14, 2001, Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission.<sup>5</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 Proposal

The Exchange proposes to amend CBOE Rule 24A.4 to provide that exercise prices for Flexible Exchange options ("FLEX Options") on specified equity securities ("FLEX Equity Options") may be stated in fractional or decimal form. The text of the proposed rule change is below. Additions are in *italics*.

## CHAPTER XXIVA

### Flexible Exchange Options

Rule 24A.4 Terms of FLEX Options

(a)-(b) Unchanged.

(c)

(1) Unchanged.

(2) Exercise prices and premiums may be stated in dollar amount or percentage of the price of the underlying security, rounded to the nearest minimum tick or, in the case of exercise prices, to the nearest \$.10 or one-eighth of a dollar;

(3)-(4) Unchanged.

Interpretations and Policies:

.01 Unchanged.

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

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. 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

The purpose of the proposed rule change is to amend Rule 24A.4, Terms of FLEX Options, to provide that exercise prices for FLEX Equity Options may be stated in fractional or decimal form. Specifically, the Exchange proposes to amend paragraph (c)(2) of Rule 24A.4 to state that exercise prices for FLEX Equity Options may be rounded to the nearest \$.10, as well as to the nearest one-eighth of a dollar. The proposed rule change would enable market participation to state both exercise prices and premiums for FLEX Equity Options in decimal form, thereby facilitating transactions in FLEX Equity Options.<sup>6</sup>

###### 2. Statutory Basis

CBOE believes the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>7</sup> in general, and Section 6(b)(5)<sup>8</sup> in particular, in that it is designed to facilitate

transactions in securities, to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market.

##### B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose a 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

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

Because the foregoing proposed rule change 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> At any time within 60 days of the filing of the 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.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become operative upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow CBOE to better compete with the over-the-counter market and those options exchanges that have already adopted rules to permit offering FLEX Equity Options strike prices in \$.10 increments. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.<sup>11</sup>

<sup>4</sup> 17 C.F.R. 200.3-3(a)(12).

<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 250.19b-4(f)(6).

<sup>5</sup> The Exchange provided the Commission with written notice of its intent to file the proposal on August 6, 2001, pursuant to Rule 19b-4(f)(6). 17 CFR 204.19b-4(f)(6). See August 3, 2001 letter from Jamie Galvan, Attorney, CBOE to Nancy Sanow, Division of Market Regulation, SEC.

<sup>6</sup> The proposed rule change is based upon the rules of other securities exchanges, specifically AMEX Rule 903G(c), PCX Rule 8.102(f) and PHLX Rule 1079(a).

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> For purposes only of accelerating the operative date of this proposal, the Commission has

#### 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 CBOE. All submissions should refer to file number SR-CBOE-2001-45 and should be submitted by September 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Jonathan G. Katz,**  
Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44713; File No. SR-DTC-2001-11]

#### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Authorizing DTC to Act Upon Instructions Provided by a Central Matching Service Provider

August 16, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 27, 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

considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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

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 authorize DTC to act upon instructions provided by a Central Matching Service Provider<sup>2</sup> to (1) accept deliver order instructions to settle transactions between DTC participants and (2) collect service fees on behalf of a Central Matching Service Provider from DTC participants. Under the proposed rule change, DTC would notify its participants of its intention to act upon the instructions of the Central Matching Service Provider except with respect to the account of a participant that advises DTC to the contrary.

#### 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

On April 17, 2001, the Commission approved DTC's proposal to combine its TradeSuite business with institutional trade processing services offered by Thomson Financial ESG in a newly-formed joint venture company, Omgeo LLC ("Omgeo").<sup>4</sup> The Commission also granted an exemption from clearing agency registration to Global Joint Venture Matching Services-US, LCC, a wholly-owned subsidiary of Omgeo,

<sup>2</sup> Central Matching Service Provider as such term is used in this proposed rule change refers to an entity that (i) provides a Central Matching Service and (ii) has registered with the Commission as a clearing agency or has been granted an exemption by the Commission from clearing agency registration. Central Matching Service means an electronic service to centrally match information between a broker-dealer and its institutional customer (so long as one or both such parties is a U.S. person) relating to transactions in securities issued by a U.S. issuer regardless of where the transactions are settled.

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

<sup>4</sup> Securities Exchange Act Release No. 44189 (April 17, 2001), 66 FR 20502 [File No. DTC-00-10].

with respect to Omgeo's provision of Central Matching Services.<sup>5</sup> DTC expects that other entities will seek to become Central Matching Service Providers.<sup>6</sup>

DTC neither engages in matching institutional trade information nor communicates to its participants or others prior to settlement that a transaction has been matched. DTC assumes that the Central Matching Service Provider will make arrangements for the communication of this information to the DTC participants expected to settle matched transactions by book-entry delivery at DTC. DTC is prepared to accept from a Central Matching Service Provider a file of deliver order instructions to settle transactions between DTC participants that have authorized DTC to accept such instructions. The purpose of the proposed rule change is to obtain Commission approval of DTC's proposal whereby DTC will act upon deliver order instructions received from the Central Matching Service Provider and will collect service fees on behalf of the Central Matching Service Provider<sup>7</sup> without the delay and inconvenience to both Central Matching Service Providers and DTC participants that would result if DTC were to require each participant to execute a written form of authorization. Under the proposed rule change, DTC would provide notice to participants of its intention to act upon the instructions of a Central Matching Service Provider, as described above, giving each participant the opportunity to advise DTC not to accept such instructions with respect to its account.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>8</sup> and the rules and regulations thereunder applicable to DTC because it will allow DTC to act upon deliver order instructions received from a Central Matching Service Provider and to collect service fees on behalf of the Central Matching Service Provider without the delay and inconvenience to both Central Matching Service Providers and participants that would result were DTC to require each participant to execute a written form of authorization.

<sup>5</sup> Securities Exchange Act Release No. 44188 (April 17, 2001), 66 FR 20494 [File No. 600-32].

<sup>6</sup> GSTP AG has filed an application with the Commission for an exemption from registration as a clearing agency. If such exemption is granted, under the proposed rule change, DTC would accept and act upon instructions submitted by GSTP AG.

<sup>7</sup> While DTC will include such fees as debits in the participant's settlement account, DTC's collection of such amounts shall be on a "best efforts" basis.

<sup>8</sup> 15 U.S.C. 78q-1.