and 17 CFR 200.402(a)(4), (8), (9)(i), and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, September 9, 1999, at 10:00 a.m., will be:

Institution of injunctive actions.
A litigation matter.
Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: September 1, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–23286 Filed 9–2–99; 11:48 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release 34–41805; File No. 600–23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice and Order Extending Temporary Registration as a Clearing Agency

August 27, 1999.

Notice is hereby given that the securities and Exchange Commission (''Commission'') pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act'') [1] is extending the Government Securities Clearing Corporation's (''GSCC'') temporary registration as a clearing agency through January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or Jeffrey S. Mooney, Special Counsel, at 202/942–4187, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–1001.

Background

On May 24, 1988, pursuant to Sections 17A(b) and 19(a) of the Act [2] and Rule 17Ab2–1 promulgated thereunder,[3] the Commission granted GSCC registration as a clearing agency on a temporary basis for a period of three years.[4] The Commission subsequently has extended GSCC's registration through August 31, 1999.[5]

In the most recent extension of GSCC's temporary registration, the Commission stated that it planned in the near future to seek comment on granting GSCC permanent registration as a clearing agency. The extension of GSCC's temporary registration will enable the Commission to do so within the next few months.

It is therefore ordered that GSCC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended through January 14, 2000, subject to the terms set forth above.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23105 Filed 9–3–99; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(a).

[2] 15 U.S.C. 78q-1(b) and 78s(a).

[3] 17 CFR 240.17Ab2–1.

[4] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[5] Securities Exchange Act Release Nos. 29067 (April 11, 1991), 56 FR 15652; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; and 41104 (February 24, 1999), 64 FR 10510.

[6] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41791; File No SR–CBOE–99–43]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Amend Its Commission Pertaining to Corporate Governance

August 25, 1999

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 August 6, 1999, 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 CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

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

The CBOE proposes to amend certain provisions of the Constitution pertaining to the governance of the Exchange.

The text of the proposed rule change follows. Additions are in *italics;* deletions are bracketed.

Article I; Definitions

Section 1.1 When used in this Constitution, *except as expressly otherwise provided or* unless the context otherwise requires:

(a) The term ''Exchange'' means the Chicago Board Options Exchange, Incorporated or its exchange market.

(b) The term ''member'' means an individual member or a member organization of the Exchange (or a registered nominee of such a member organization) that is a regular member in good standing described in section 2.1(b) of Article II of the Constitution[, or that is a special member in good standing described in section 2.1(d) of Article II of the Constitution to the extent that such special members are entitled to the rights and are subject to the obligations of members under the Certificate of Incorporation, the Constitution or the Rules].

(c) The term ''member organization'' means a partnership or corporation which owns a membership, or a partnership or corporation for which a membership is registered in accordance with Section 2.4 of Article II of the Constitution.

(d) The term ''Board'' means the Board of Directors of the Exchange.

(c) The term ''Rules'' means the rules of the Exchange as adopted or amended from time to time.

Article II; Membership

Section 2.1 Number of Memberships

(a) Membership in the Exchange shall be made available by the Exchange at such times, under such terms and in such number as shall be proposed by the Board and approved by the affirmative vote of the majority of the members present in person or represented by proxy at a regular or special meeting of the membership. Such an affirmative vote by the members shall be required for the issuance of all new memberships, whether regular or special, whether having expanded or limited rights, whether designated memberships or permits or as a classification using any other description, which grant the holders thereof the right to enter into securities transactions at the Exchange.

(b) The regular membership of the Exchange shall consist of persons who acquire *regular* memberships made available by the Exchange in accordance with the Rules, and shall also consist of those members of the Board of Trade of the City of Chicago who, pursuant to paragraph (b) of Article FIFTH of the Certificate of Incorporation, elect to apply for membership and are approved for membership in accordance with the rules. Except as otherwise expressly provided in the Certificate of Incorporation, the Constitution or the rules, every regular member of the Exchange shall be entitled to the same rights and privileges, and shall be subject to the same obligations, as every other regular member.

(c) *Reserved for special memberships.* [All prior offers by the Exchange of memberships unsold as of August 29, 1977, are withdrawn and all available memberships unsold by the Exchange as of said date are terminated.]

[(d) The special membership of the Exchange shall consist of persons who were options members in good standing of the Midwest Stock Exchange, Incorporated (''Midwest'') as of May 30, 1980 and, subject to the conditions of approval for membership as stated in the Constitution and Rules, transferees of such persons. Special members in good standing, or lessees of such special members under these arrangements that have been in effect continuously from July 18, 1978, shall be entitled to act as Market-Makers or Floor Brokers in accordance with Chapters VI and VIII of the Rules in and only in those classes of MSE Options which continue to be open for trading on the Exchange; provided that all special memberships shall expire and all rights of special members shall cease, ten years after the date stated in the first sentence of this paragraph (d), and provided further, that a special membership may be canceled by the Exchange at an earlier date under the circumstances, and with the effect, as provided in the Rules. Special members shall as a condition of their membership be subject to all of the obligations of regular members under the Constitution and the Rules, except as may be otherwise expressly provided that Constitution or the Rules. For purposes of this paragraph (d), the term ''MSE Options'' shall mean (i) those classes of call options which were open for trading on Midwest at the close of business on the last business day prior to the date defined in the first sentence of this paragraph (d) other than classes or call options which, on the day Midwest commenced trading in such classes, also were open for trading on the Exchange, and (ii) all classes of put options on the securities underlying the classes of call options covered by (i).]

(d)[(e)](1) Seventy-five ''Options Trading Permits'' (''Permits'') shall be issued or made available for leasing in accordance with the Rules. All Permits shall expire, and all rights of their holders shall cease, on the seventh anniversary of the date determined pursuant to agreement between the Exchange and the New York Stock Exchange (''NYSE'') on which trading begins on the floor of the Exchange in options that were listed on the NYSE.

(2) Permit holders shall have no right to petition or to vote at Exchange membership meetings or elections or to be counted as part of a quorum, shall have no interest in the assets or property of the Exchange and no right to share in any distribution by the Exchange, and shall have none of the other rights or privileges accorded members under any provision of the Constitution and Rules other than those specified in the Rules.

Section 2.2 Eligibility for Membership; Good Standing

Membership shall be limited to individuals, partnerships[,] and corporations, subject to their meeting the conditions of approval as stated in the Constitution and Rules. Members must have as the principal purpose of their membership the conduct of a public securities business as defined in the Rules.

The good standing of a member may be suspended, terminated or otherwise withdrawn, as provided in the rules, if any of said conditions for approval cease to be maintained or the member violates any of its agreements with the Exchange or any of the provisions of the Constitution or the rules. Unless a member is in good standing, the member shall have no rights or privileges of membership except as otherwise provided by statute, the Certificate of Incorporation, the Constitution or the Rules, shall not hold himself or itself out for any purpose as a member, and shall not deal with the Exchange on any basis except as a non-member.

Section 2.3 Nominees of Member Organizations

No Change.

Section 2.4 Registration of Individual Memberships for Member Organizations

No Change.

Section 2.5 Acquisition and Transfer of Memberships

No Change.

Section 2.6 Voting and Other Rights and Powers

[(a)] Each regular member shall have the voting rights and power provided by law and by the Certificate of Incorporation *and the Constitution*.

[(b) Except as otherwise provided by law and by section 12.1, each special member shall be entitled at every meeting of members to one-sixth of one vote in person or by proxy, voting together with regular members and not as a separate class, and shall count as one sixth of a member in all other instances when reference is made in the Constitution to a majority or other proportion or number of members (including, without limiting the generality of the foregoing, reference to calling meetings or members, nominating by petition of members, determining a quorum of members or voting by members).]

[(c) Special members shall have the same eligibility as a regular members to serve as directors of the Exchange and to serve on any committee of the Exchange.]

[(d) Special members shall have no interest in or right to share in any distribution of the property and assets of the Exchange in the event of any liquidation or dissolution of the Exchange.]

Article III; Meetings of Members

Section 3.1 Place of Meetings

No Change.

Section 3.2 Annual Election Meeting

An annual election meeting of members shall be held on the [2nd Monday]*3rd Friday* in [December]*November* of each year unless such day is a legal holiday, in which case on the next succeeding business day which is not a legal holiday, at such time as may be designated by the Board prior to the giving of notice of the meeting, for the purpose of electing directors to fill expiring terms and any vacancies in unexpired terms and electing members of the Nominating Committee to fill expiring terms and any vacancies in unexpired terms.

Section 3.3 Annual Report Meeting

An annual report meeting of members shall be held within [90]*120* days following the end of the Exchange's fiscal year, at a time as determined by the Board, for the purpose of transacting such business as may properly be brought before the meeting.

Section 3.4 Special Meetings

Special meetings of members, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the Chairman of the Board, the Chairman of the Executive Committee[,] or the Board of Directors, and shall be called by the Secretary at the request in writing of 150 voting members, provided that such request shall state the purpose or purposes of the proposed meeting and the day and hour at which such meeting shall be held.

Section 3.5 Notice of Members' Meetings

No Change.

Section 3.6 Quorum and Adjournments

Except as otherwise provided by statute, the Certificate of Incorporation or the Constitution, a majority of the members entitled to vote, when present in person or represented by proxy, shall constitute a quorum at all meetings of members for the transaction of business, provided that in respect to uncontested elections, one-third of the members entitled to vote, when present in person or represented by proxy, shall constitute a quorum. If such quorum shall not be present or represented *by proxy* at any meeting of members, a majority of the members present in person or represented by proxy at [any such] *the* meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting unless otherwise required by statute, until a quorum shall be present or represented. At *any* such adjourned meeting at which a quorum [shall be] *is* present [or represented], any business may be transacted which might have been transacted at the meeting as originally notified. Nothing in the Constitution shall [effect] *affect* the right to adjourn a meeting from time to time where a quorum is present.

Section 3.7 Voting by Members

With respect to any question brought before a meeting, when a quorum is present, a majority of *voting* members present in person or represented by proxy shall decide the question, unless the question is one upon which by express provision of statute, the Certificate of Incorporation or the Constitution, a different vote is required, in which case such express provision shall govern and control. Voting on any question brought before any meeting of members shall be, so far as applicable, in accordance with the procedure provided by Article V of the Constitution for the conduct of the annual election.

Article IV; Nominations

Section 4.1 Nominating Committee

(a) There shall be a Nominating Committee composed of [seven members, and except for the members of the initial] *four members who are primarily engaged in business on the floor of the Exchange in the capacity of a member (floor members) (except that, as provided in paragraph (b) of this section 4.1, the* Nominating Committee [each of the members shall be a member of the Exchange. The initial Nominating Committee, which shall select the nominees to be voted upon at the initial] *shall have six floor members until the 1999* annual election meeting, [shall be appointed by the Board. Thereafter, there shall be six elected] *and shall have five floor members until the 2000 annual election meeting); two members who are officers of member organizations that primarily conduct a non-member public customer business (firm members); two members each of whom directly or indirectly owns and controls (as defined in section 6.1(a)) one or more memberships in respect of which he acts solely as lessor (lessor members), at least one of whom is not actively engaged in business as a ''broker-dealer'' or as a ''person associated with a broker-dealer'' as those terms are defined in the Securities Exchange Act of 1934; and two representatives of the public (public members).*

(b) All of the members of the Nominating Committee [chosen] *shall be elected* by the [membership] *voting members* of the Exchange, [and one member]. *Members* of the Nominating Committee *elected prior to the 1999 annual election meeting shall continue to serve until the expiration of the terms for which they were elected. The Nominating Committee to serve in respect of the 1999 annual election meeting shall also include two firm members, two lessor members and two public members, all of whom shall be* appointed by the Chairman of the Executive Committee with the approval of the Board *of Directors.* [At] *In* the [first] *1999* annual election meeting, [the six elected members of the Nominating Committee] *one floor member shall be elected for a three year term, and two firm members, two lessor members and two public members* shall be elected, [two for a term expiring at the annual election meeting following the initial annual election meeting, two for a term] *one firm member, one lessor member and one public member for terms* expiring at the second annual election meeting following the [initial] *1999* annual election meeting, and [two] *one firm member, one lessor member and one public member* for [a term] *terms* expiring at the third annual election meeting following the [initial] *1999* annual election meeting. *In the 2000 annual election meeting, one floor member shall be elected for a three year term.* At each subsequent annual election meeting, [two] *members of the Nominating* Committee [members] shall be elected to succeed those whose terms expire, *each* to serve for a term expiring at the third succeeding annual election meeting[. One Committee member shall be appointed each year, for a term of one year, at the regular Board meeting immediately following the annual election meeting. A member] *and until their successors are duly elected and qualified. Elected members* of the Nominating Committee shall be ineligible for [election or appointment to the Committee] *reelection* for a period of three years after [his term expires] *their terms expire.*

Section 4.2 Nominating Committee Vacancies

Any vacancy occurring among the members of the Nominating Committee may be filled by a *qualified person appointed by* the Chairman of the Executive Committee with the approval of the Board *to hold office* until the next annual election meeting, at which time a *qualified* successor shall be elected to serve the unexpired term, if any, of his [elected] predecessor in office.

Section 4.3 Nominating Procedure

During October of each year the Nominating Committee shall hold at least three meetings, at least two of which shall be open to the membership, for the purpose of selecting not less than one nominee for each of the following offices to be voted [on] *upon* at the following annual election meeting:

(a) Directors to fill expiring terms and vacancies.

(b) Nominating Committee members to fill expiring terms and vacancies.

The Nominating Committee shall select nominees to fulfill the requirements of sections 6.1 and 4.1 of the Constitution with an obligation to have the various interests of the membership represented on the Board and the Nominating Committee, respectively. Notice of each of [these] *the* meetings *of the Nominating Committee* shall be posted on the bulletin board on the floor of the Exchange.

Section 4.4 Replacement Nominees

In the event any nominee named by the Nominating Committee withdraws or becomes ineligible, the Nominating Committee may select an additional *qualified* nominee to replace the withdrawn or ineligible nominee, and it shall select an additional *qualified* nominee if, as a result of the withdrawal or ineligibility, there is not at least one nominee for each of the offices to be elected.

Section 4.5 Nomination by Petition

Nominations *of candidates for election to the Board or the Nominating Committee* may be made by petition, signed by not less than 100 *voting* members of the Exchange and filed with the Secretary no later than 5:00 p.m. (Chicago time) on *the Monday preceding the 1st Friday in* November [15], or the first business day thereafter in the event *that Monday* [November 15] occurs on a holiday [or a weekend].

Section 4.6 Posting of Names of Nominees

No Change.

Section 4.7 Qualifications of Nominees

Candidates for election to the Board or the Nominating Committee, whether nominated by the Nominating Committee or by petition, shall be eligible for election in any of the categories for which they qualify both at the time of their nomination and at the time of their election. The sole judge of whether a candidate satisfies the applicable qualifications for election to the Board or the Nominating Committee in a designated category shall be the Nominating Committee in the case of candidates nominated by that Committee, and shall be the Executive Committee in the case of candidates nominated by petition, and the decision of the respective committee shall be final.

Article V: Conduct of Annual Election

Section 5.1 Election Committee

No. Change.

Section 5.2 Voting Procedure

Immediately following the expiration of the time within which nominations may be made by petition, the Secretary shall prepare a ballot listing all candidates nominated for offices to be voted upon at the annual election, the order of the listing to be determined by lot. A ballot, a form of proxy, an envelope marked ''For Ballot Only'' and a return envelope shall be mailed by the Secretary to each member *eligible to vote,* together with the notice of the annual election. Members may vote, either in person or by proxy, by marking the ballot which shall remain unsigned and sealing the same in the unmarked ballot envelope. Members desiring to vote by proxy shall mail the sealed ballot, accompanied by a signed proxy card, to the Secretary so that it is received by [him] *the Secretary* prior to the election. At the election, members voting in person shall deliver their sealed ballot envelopes to at least two members of the Election Committee, who shall keep a list of the members voting and shall place the sealed ballot envelopes in the ballot box. Following the completion of voting in person, the Secretary shall deliver to the Election Committee all of the proxies, each with its accompanying sealed ballot envelope. At least two members of the Election Committee shall check the names of the members voting by proxy on the voting list, file the proxies, and place the sealed ballot envelopes in the ballot box.

Section 5.3 Counting of Ballots

When all of the ballots properly submitted at the election have been placed in the ballot box, *members of* the Election Committee shall open the ballot box and the sealed ballot [envelope]*envelopes,* and shall count the ballots. A plurality of *the* votes shall elect the directors; provided, however, that where a plurality of votes cast [do] *would* not elect [at least 2 directors who shall be off-floor directors, as defined in section 6.1, of which at least 1 shall be a nonresident and at least 2 directors who shall be floor directors, as defined] *the number of directors from each of the categories specified* in section 6.1, then the [appropriate] *specified* number of candidates from each of [the above] *such* categories who receive the highest votes among all those candidates in each such category shall be elected in lieu of those candidates [with] *who receive what would otherwise be* the lowest winning pluralities. A plurality of *the* votes shall elect *the* members of the Nominating Committee; provided, however, that in the same manner as described above for the election of directors, in any case where a plurality of votes cast would not elect the number of members of the Nominating Committee from each of the categories specified in section 4.1, then the specified number of candidates in each such category who receive the highest votes among all candidates in that category shall be elected. The Election Committee shall cause election results to be posted on the bulletin board on the floor of the Exchange.

Article VI: Board of Directors

Section 6.1 Number, Election and Term of Office of Directors

(a) The Board of Directors shall *consist* [be composed] of *22* [21] directors, [15 of whom shall be members of executive officers of member organizations of the Exchange and shall be] by the membership of the Exchange, [4 of whom shall not be members of the Exchange and shall be appointed by the Chairman of the Board and approved by the Board to represent the public (public directors),] *as described below* and the Chairman of the Board [and the President], who by virtue of *his* [their] office[s] shall be *a* member[s] of the Board. *Commencing with the 1999 annual election meeting, the Directors elected by the membership shall be divided into three classes, composed as follows:*

Class I shall consist of one member who directly or indirectly owns and controls a membership and is primarily engaged in business on the floor of the Exchange in the capacity of a member (floor director), one member who functions as a member in any recognized capacity either individually or on behalf of a member organization (at-large director), one member who directly or indirectly owns and controls a membership with respect to which he acts solely as lessor and who is not actively engaged in business as a ''broker-dealer'' or as a ''person associated with a broker-dealer'' as those terms are defined in the Securities Exchange Act of 1934, (lessor director), two members who are executive officers of member organizations that primarily conduct a non-member public customer business and are not individually engaged in business on the Exchange floor (off-floor directors, and two non-members who are not broker-dealers or persons affiliated with broker-dealers (public directors).

Class II shall consist of one floor director, one at-large director, two off-floor directors and three public directors.

Class III shall consist of two floor directors, one at-large director, two off-floor directors and three public directors.

The ordinary place of business of at least one of the two off-floor directors in each Class shall be a location more than 80 miles from the Exchange's trading floor. For purposes of this section 6.1, a member shall be considered to directly own and control a membership only if the member individually and directly owns of record and beneficially all right, title and interest in the membership, and a member shall be considered to

indirectly own and control a membership only if the member (A) has the sole and exclusive right to vote the membership and control its sale, and (B) is in possession of and subject to all of the risks and rewards of a direct owner of at least a fifty percent (50%) interest in a membership, either through ownership of an equity interest in a member organization or of a beneficial interest in a trust, which in either case is the owner of one or more memberships as permitted under the rules.

(b) The initial terms of Class I, Class II and Class III directors shall terminate following the annual election meetings to be held in 1999, 2000 and 2001, respectively, and members of the Board prior to the annual election meeting to be held in 1999 shall be assigned to one of these three Classes on the basis of the year in which their current term of office expires.[3] *At the 1999 annual election meeting, all of the Class I directors shall be elected for three year terms, and directors shall be elected to fill vacancies in Classes II and III. At subsequent annual election meetings, the directors of each class shall be elected for three year terms to succeed those whose terms are then about to expire, and they* [At least 6 of 15 elected Directors shall be members who individually either own or directly control their memberships on the Exchange and are primarily engaged in business on the Exchange floor (floor directors) and at least 6 of the 15 elected Directors shall be executive officers of member organizations which primarily conduct a non-member public customer business and shall individually not be primarily engaged in business activities on the Exchange floor (off-floor directors). Of the off-floor directors, at least 3 shall have as their ordinary place of business a location more than 80 miles from the Exchange's trading floor. The remaining 3 of the 15 elected Directors shall be members who function in any recognized capacity either individually or on behalf of a member organization. At each annual election meeting, 5 Directors shall be elected, at least 2 shall be off-floor directors, of which at least 1 shall be a non-resident; at leat 2 shall be floor directors. All of such elected Directors shall succeed those elected Directors whose terms expire and shall serve for a term of 3 years. After the annual election meeting next occurring subsequent to the effective date of the Constitutional amendment increasing the number of public directors, 2 public directors shall be appointed, 1 for a term of 2 years and 1 for a term of 1 year; and after each subsequent annual election meeting, 2 public directors shall be appointed, each to serve for a two-year term, succeeding the public directors whose terms then require. Each Director] shall hold office for the terms *for* [to] which [he is] elected [or appointed] *and until their successors shall have been duly elected and qualified,* or until *their* [his] earlier death, resignation or removal[;]. *T*erms of office *of directors* shall expire at the first regular meeting of the Board of Directors *held on or after Janaury 1* following *the* annual election meeting[s] *at which their successors are elected.*

Section 6.2 Powers of the Board

No Change.

Section 6.3 Resignation, Disqualification and Removal of Directors

(a) A Director may resign at any time by giving written notice of his resignation to the Chairman of the Boad or the Secretary, and such resignation, unless specifically contingent upon its acceptance, will be effective as of its date or of the date specified therein.

(b) [From and after the initial annual election meeting, any elected Director who] *In the event (i) any Director other than a public director* ceases to be a member or executive officer of a member organization *or (ii) the number of Directors in any designated category within a Class falls below the number for that category and Class as specified in section 6.1 because of the failure of a Director to maintain the qualifications for the designated category, of which failure the Board of Directors shall be the sole judge, the Director* shall thereupon cease to be a Director [and], his office shall become vacant *and the vacancy may be filled at the next scheduled meeting of the Baord of Directors with a person who qualifies for the category in which the vacancy exists,* provided that [an elected Director] *a Director other than a public director* whose membership is suspended may remain a Director *during the period of suspension* unless he is removed pursuant to paragraph (c) of this Section.

(c) In the event of the refusal, failure, neglect or inability of any Director to discharge his duties, or for any cause affecting the best interests of the Exchange the sufficiency of which the Board of Directors shall be the sole judge, the Board shall have the power, by the affirmative vote of at least two-thirds of the Directors then in office, to remove such Director and declare his office vacant.

[(d) In the event the number of Directors who qualify as floor directors falls below six because of the failure of a floor director to maintain the qualifications for election to that office specified in section 6.1 of the Constitution, of which the Board of Directors shall be the sole judge, the Director shall thereupon cease to be a Director, his office shall become vacant and the vacancy shall be filled at the next scheduled meeting of the Board of Directors with a member who qualifies as a floor director. Firm and public directors also shall maintain the qualifications for election to those offices, with the Board of Directors again being the sole judge as to whether qualifications have been maintained.]

Section 6.4 Filling of Vacancies

Any vacancy in the Board of Directors resulting from a Director ceasing to hold office [Prior to the initial annual election meeting any vacancy occurring in the Board, and from and after the initial annual election meeting any vacancy of an elected Director] prior to the expiration of his term [of office,] may be filled *by a person who is qualified to serve in the category of the Board in which the vacancy exists and who is appointed* by the affirmative vote of a majority of the Directors then in office, and any Director so chosen shall serve until the next annual election meeting and until his successor is duly elected and qualified. The remaining portion of the unexpired term of [an elected] *a* Director, if any, shall be served by a Director elected at such next annual election meeting. [A vacancy of an appointed Director prior to the expiration of his term of office may be filled by the Chairman of the Board with the approval of the Board, and any Director so chosen shall serve the unexpired term of his predecessor in office.]

Section 6.5 Quorum

No Change.

Section 6.6 Regular Meetings

No Change.

Section 6.7 Special Meetings

Special meetings of the Board may be called by the Chairman of the Board or the Chairman of the Executive Committee and shall be called by the Secretary upon the written request of any 4 Directors. The Secretary shall give at least one hour's notice of such meeting to each Director, either by

[3] *Any member serving as a floor director prior to the 1999 annual election meeting shall be permitted to serve out the remainder of his current term of office without regard to whether his business on the floor is conducted ''in the capacity of a member.''*

announcement on the Exchange floor during trading hours on business days, or personally, or by mail, telegram or cablegram. Every such notice shall state the time and place of the meeting[,] which shall be fixed by the person calling the meeting, but need not state the purpose thereof except as otherwise required by statute, the Constitutiion or the Rules.

Section 6.8 Participation in Meeting

No Change.

Section 6.9 Informal Action

No Change.

Section 6.10 Interested Directors

No Change.

Section 6.11 Annual Report to Members

No Change.

Article VII; Committees

Section 7.1 Designation of Committees

The Committees of the Exchange shall consist of an Executive Committee and such other standing and special committees as may be provided in the Constitution or Rules or as may be from time to time appointed by the Chairman of the Executive Committee with the approval of the Board. [The] *Except as may be otherwise provided in the Constitution of the Rules, the* Chairman of the Executive Committee with the approval of the Board [may] *shall* appoint the members of all committees[, and may designate a Chairman and a Vice-Chairman thereof other than the Chairman of the Executive Committee, who shall be [elected] *selected* as provided in section 8.1(a) of the Constitution.

Section 7.2 The Executive Committee

The Executive Committee shall consist of the Chairman of the Board, the Chairman of the Executive Committee, [the President] and at least 4 other persons, each of whom must be a Director. Each member of this Committee shall be a voting member. The members of the Executive Committee shall serve for a term of one year expiring at the first regular meeting of Directors following the annual election meeting in each year. The Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange, except it shall not have the power or authority of the Board in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the members of sale, lease or exchange of all or substantially all of the Exchange's property and assets, recommending to the members the dissolution of the Exchange or a revocation of a dissolution, or amending the Constitution or Rules of the Exchange.

Section 7.3 Other

No Change.

Section 7.4 Conduct of Proceedings

No change.

Section 8.1 Designation; Number; Election

(a) The officers of the Exchange shall be a Chairman of the Board, a Chairman of the Executive Committee, a President, one or more [Vice Presidents]*Vice-Presidents* (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as the Board may determine. The Chairman of the Board shall be elected by the affirmative vote of at least two-thirds of the Directors then in office exclusive of the Chairman [and the President[, who shall not vote. Such affirmative vote may also prescribe his duties not inconsistent with the Constitution or Rules and may prescribe a tenure of office.

The Chairman of the Executive Committee shall be a director who owns or directly controls his own membership and *is primarily engaged in business on the floor of the Exchange in the capacity of a member. He* shall be elected by a plurality of members voting at a meeting of the membership held *on the 3rd Friday in December of* each year [on the third] (or if that day is not a business day [in January], *on the next succeeding business day) and shall serve unil his successor is duly chosen and qualified or until his earlier death of his registration or removal. Once a director has held the office of the Chairman of the Executive Committee for six months or more of a one-year term and for the next two succeeding one-year terms, the director shall thereafter be ineligible to again hold the office until a period of not less than six months has elapsed during which the director has not held that office. Candidates for the office of Chairman of the Executive Committee* must notify the Secretary of the Exchange in writing no later than the [third Monday of December.]*close of business on November 23rd (or if that day is not a business day, on the next succeeding business day).* In the event there is only one candidate, no election need be held, and the Board of Directors shall declare the office filled by the sole announced candidate.

The remaining officers of the Exchange shall be appointed by the Chairman of the Board, subject to the approval of the Board, at the first regular meeting of the *Board of* Directors *held on or* after *January 1 following* each annual election meeting, [and shall] *each to serve until [his] a* successor [is]*has been* duly chosen and qualified or until [his] *the officer's earlier death or [his] resignation or removal.*

(b) No Change.

Section 8.2 Chairman of the Board of Directors.

(b) No Change.

Section 8.3 Chairman of the Executive Committee/*Vice-Chairman of the Board*

The Chairman of the Executive Committee *(who is also Vice-Chairman of the Board)* shall preside at meetings of the Executive Committee and at meetigns of the members. Subject to the approval of the Board, [he]*the Chairman of the Executive Committee* may appoint standing and special committees unless the method of appointment is otherwise provided for in the Constitution or Rules *or in the resolution of the Board establishing the committee.* [He] *The Chairman of the Executive Committee* shall be responsible for the coordination of the activities of all committees. He shall be an ex-officio member, without a right to vote, of all committees, without prejudice to [his] being specifically appointed as a voting member of any committee. [He is the Vice Chairman of the Board.] In the case of the absence or inability to act of the Chairman of the Board, or in case of a vacancy in the office of the Chairman of the Board, [he]*the Chairman of the Executive Committee* shall exercise the powers and discharge the duties of the Chairman of the Board.

Section 8.4 Acting Chairman

In the absence or inability to act of both the Chairman of the Board and the Chairman of the Executive Committee, the Board may designate an Acting Chairman of the Board. In the absence of such a designation by the Board, the President, or in his absence or inability to act, the senior available Vice-President, shall assume all the functions and discharge all the duties of the Chairman of the Board.

Section 8.5 Vacancy in Office of Chairman of the Executive Committee

(a) If the Chairman of the Executive Committee shall cease to *satisfy the requirements for election to* [be a member] *that office,* he shall thereupon cease to hold his office and such office shall become vacant, provided that if his

membership is suspended he may continue to hold office unless he is removed pursuant to paragraph (a) of section 8.7.

(b) If a vacancy occurs in the office of Chairman of the Executive Committee[,] pursuant to paragraph (a) of this section[,] or[,] if for any other reason the office becomes vacant, the Board, by the affirmative vote of a majority of the Directors then in office, shall fill such vacancy by the election to such office of a Director then in office who [owns or directly controls his own membership] *satisfies the requirements for election to such office.*

Section 8.6 President

The President shall be the chief operating officer of the Exchange. The President shall, by virtue of his office, be [a member of the Board of Directors and] an ex-officio member, without a right to vote, of all committees *other than committees whose membership is limited to directors of the Exchange,* without prejudice to his being specifically appointed as a voting member of any committee *other than a committee limited to directors.* Except as is otherwise provided in the Certificate of Incorporation, the Constitution or the Rules, the President shall have the power to employ and dismiss employees of the Exchange, and to establish their qualifications, duties, and salaries; he shall execute all authorized contracts on behalf of the Exchange and shall perform such other duties as may be prescribed by the Board from time to time. The President shall not engage in any other business during his incumbency as President, and by his acceptance of the office of President, he shall be deemed to have agreed and he shall have agreed to uphold the Constitution and Rules. In case of his temporary absence or inability to act he may designate any other officer to assume all the functions and discharge all the duties of the President. Upon his failure to do so, or if the office of President be vacant, the chairman of the Board or any officer designated by him shall perform the functions and duties of the President. When the President returns or is again able to act, he shall resume his duties.

Section 8.7 Removals

(a) No Change.

(b) Any officer, other than the Chairman of the Executive Committee, chosen by the Board may be removed at any time by the Board whenever in its judgment the best interests of the Exchange would be served thereby; provided, that the Chairman of the Board or the President may be removed only by the affirmative vote of at least [two thirds] *two-thirds* of the Directors then in office exclusive of the Chairman of the Board [and the President], who shall not vote. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(c) No Change.

Section 8.8 Vice Presidents

No Change.

Section 8.9 Secretary

No Change.

Section 8.10 Treasurer

No Change.

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Article XI; General Provisions

Section 11.1 Fiscal Year

No Change.

Section 11.2 Checks, Drafts and Other Instruments

No Change.

Section 11.3. Departments

No Change.

Section 11.4 Officers and Employees Restricted

(a) Every Salaried officer or employee of the Exchange, except the Chairman of the Executive Committee, and every salaried officer or employee of any corporation in which the Exchange owns the majority of the stock, shall report promptly to the Exchange every purchase or sale for his *or her* own account or the account of others of any security which is the underlying security of any option contract admitted to dealing on the Exchange.

(b) With the exception of the Chairman of the Executive Committee, no salaried officer or employee of the Exchange or salaried officer or employee of any corporation in which the Exchange owns the majority of the corporate stock may purchase or sell for his *or her* own account or for the account of others any option contract which entitles the purchaser to purchase or sell any security described in paragraph (a) of this Section

No Change.

Article XII; Amendment

Section 12.1 Constitution

The Constitution may be amended at any regular or special meeting of members by the affirmative vote of a majority of the members present in person or represented by proxy at the meeting[; provided, however, that any amendment to Section 2.1(d), Section 2.6(b) and (c), or to this Section 12.1 having an adverse effect on special members must be approved by the affirmative vote of a majority of both the special members eligible to vote and the regular members present in person or represented by proxy at the meeting, voting as separate classes].

Section 12.2 Rules

The Rules may be amended by the affirmative vote of a majority of the Directors present at a meeting at which such amendment is proposed, provided, however, that promptly upon *the* adoption of an amendment of the Rules, notice there shall be sent to each member, and within 15 days after such notice has been given, 150 or more *voting* members may request in writing that a special meeting of members be held to vote upon whether the amendment to the Rules shall be approved. The notice of the meeting shall state that the approval of such a proposed amendment will be considered.

Section 12.3 Effectiveness of Amendments

Subject to applicable federal or state regulatory requirements, amendments to the Constitution shall be effective upon their adoption by the members, and amendments to the Rules shall be effective at the expiration of the 15-day notice period, or, if a special meeting of members has been requested to vote upon the amendment *or if the amendment otherwise requires membership approval,* at the time the amendment is approved by the *requisite vote of the members; provided, however, that, except in the case of a Rule that expressly requires amendments to be approved by the membership or by a class of members,* the Board may declare an amendment to the rules effective immediately upon its adoption by the Board whenever the Board determines that, under the circumstances, such accelerated effectiveness is appropriate. Any amendment to the rules which is declared effective by the Board upon its adoption nevertheless remains subject to being voted upon at a special meeting of members in accordance with section 12.2, and any such amendment which is so voted upon but not approved shall be rescinded and shall cease to be effective from and after the time of its failure to be approved by the members. The rights and obligations of persons who rely in good faith on an amendment to the rules declared immediately effective by the Board shall not be affected in the event such amendment is subsequently disapproved by the members.

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

A. Purpose

The CBOE proposes to make certain revisions to provisions of its Constitution pertaining to the governance of the Exchange. In particular, the CBOE proposes to increase the public representation on the Exchange's Board of Directors from four to eight public directors. The CBOE also proposes to require that at least one seat on the Board be held by an owner/lessor of a CBOE membership who is not actively engaged in business as a broker-dealer, reflecting the increasing number of CBOE memberships that are held by such ''passive'' lessors. To accommodate the greater number of public directors and the lessor director, the CBOE proposes to increase the total size of the Board from 21 to 23 directors, and to reduce the number of floor directors from six to four. The CBOE also proposes that the President of the Exchange will no longer be an *ex-officio (i.e.,* by virtue of the position) director. The number of off-floor member firm directors and at-large directors will remain unchanged at six directors and three directors, respectively, and the Chairman will continue to serve as an *ex-officio* director. Directors will continue to be elected for three-year terms, with all categories of directors to be elected by the membership. For transitional purposes, each director currently serving on the Board will be assigned to one of the three classes to permit those directors to complete their current terms of office.

The Exchange also proposes to clarify certain requirements applicable to the specific categories of directors as follows: in addition to the current requirement that floor directors must be primarily engaged in business on the floor of the Exchange, the CBOE proposes to specify that they must be ''on a seat'' (*i.e.,* acting in the capacity of a member) in connection with their floor activity. The CBOE also proposes to clarify the current requirement that a floor director own or control a membership by specifying that a floor director may own a membership indirectly through an interest in a corporation, partnership, limited liability company, trust or other entity that owns one or more memberships directly, so long as the director has the sole and exclusive right to vote a membership and control its sale, and is in possession of all of the risks and rewards of a direct owner of at least 50% interest in a membership. Finally, the CBOE proposes to specify that the Vice-Chairman of the Exchange (the Chairman of Executive Committee) must not only own a membership (as required under the current Constitution), but also must be primarily engaged in business on the floor of the Exchange.

The Exchange also proposes to expand the size of the Nominating Committee from seven to ten members to add representatives of retail firms, lessors and the public to that Committee. The Nominating Committee will judge the qualifications of all candidates for election to the Board or the Nominating Committee who are nominated by that Committee, and the Executive Committee will judge the qualifications of candidates who are nominated by petition. As proposed, the Nominating Committee would consist of four floor members (except during the first two transition years, when the number of floor members would first be six, and then five), two members who represent firms that primarily conduct a public customer business, two members who are lessors of their memberships (at least one whom must be a ''passive'' lessor, as described above), and two public members. All of the members of the Nominating Committee will be elected by the membership for three-year terms, except during a transition period, some members will be elected for shorter terms. The new retail firm, lessor, and public members of the Nominating Committee to serve with respect to the 1999 annual election will be appointed by the Chairman of the Executive Committee, with the approval of the Board.

Finally, the CBOE proposes to modify the timetable for various election matters that are provided for in the Constitution to advance the time when the Chairman of the Executive Committee (the Vice-Chairman of the Exchange) is selected by a few weeks. This proposed change is intended to enable the Vice-Chairman to complete the process of selecting chairpersons of the various Exchange committees by the end of the year.

The Exchange also proposes to make a few ''housekeeping'' changes to the Constitution to delete obsolete provisions. For example, the CBOE proposes to delete all references to ''special'' members of the Exchange, because there are no longer any members in this category.

2. Basis

The CBOE believes that the proposed amendments to the Constitution further the objectives of Section 6(b)(3) of the Act[4] to assure fair representation of the members of the Exchange in the selection of its directors and in the administration of its affairs, and to provide that one or more members of the Board of Directors must be representatives of investors (*i.e.,* public directors).

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 proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the

[4] 15 U.S.C. 78f(b)(3).

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–99–43 and should be submitted by September 28, 1999.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23108 Filed 9–3–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41799; File No. SR–DTC–99–20]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Implementing a Freeze on New Participant Accounts and a Contingency Plan for Withdrawal by Transfer Transactions

August 27, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (Act),[1] notice is hereby given that on August 19, 1999, The Depository Trust Company (DTC) filed with the Securities and Exchange Commission (Commission) the proposed rule change as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

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

The proposed rule change provides that generally, DTC will not activate any new participant accounts after September 15, 1999, and until reasonably practicable in January 2000.[2] In addition, DTC will temporarily implement a contingency plan for the processing of withdrawal by transfer (WT) transactions in the unlikely event that participant's customers seek to withdraw security positions from participants due to concerns regarding systems problems related to the century date change.

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.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

September 15th New Participant Account Freeze

The proposed rule change provides that generally DTC will not activate any new participant accounts after September 15, 1999 (the end of the participant validation testing period),[4] and until reasonably practicable in January, 2000. DTC announced in its June 3, 1999, Important Notice that ''[a]ny organization currently seeking admission as a direct Participant should plan to complete the admission process by [September 15], or defer activation of its account until after the century date change. Similarly, Participants wishing to switch to computer-to-computer input of settlement-related transactions or switch to another mode of computer-to-computer input for transactions must have completed implementation of the changes (and complete the necessary validation testing) by September 15.''

DTC's Rule 2 provides in part that:

> The Corporation may decline to accept the application of any applicant upon a determination by the Corporation that the Corporation does not have adequate personnel, space, data processing capacity or other operational capability at that time to perform its services for additional Participants without impairing the ability of the Corporation to provide services for its existing Participants, to assure the prompt, accurate and orderly processing and settlement of Securities transactions, to safeguard the funds and Securities held by or for the Corporation for Participants or Pledgees or otherwise to carry out its functions; provided, however, that applicants whose applications are denied pursuant to this paragraph shall be approved as promptly as the capabilities of the Corporation permit in the order in which their applications were filed with the Corporation.

DTC believes that continuing to activate numerous new participant accounts or allowing participants to change their mode of settlement-related computer input after September 15th could potentially be disruptive to the rest of its Year 2000 efforts. Specifically, DTC will be devoting a great deal of resources to its second internal certification test in October and November of 1999. The internal certification test involves the testing of DTC's mainframe applications and systems in order to confirm their Year 2000 readiness. Additionally, DTC would like to ensure that it has enough time to deal with any unanticipated issues that arise before the end of the calendar year.

Withdrawal By Transfer Contingency Plan

In response to concerns expressed by some participants and in consultation with the Securities Industry Association and the Securities Transfer Association, DTC will temporarily implement a contingency plan to deal with the processing of an increased number of WT transactions (WT contingency plan). The concerns stem from the possibility that customers will seek to withdraw security positions from participants due to fears relating to the century date change in spite of customer education campaigns by participants and industry groups. Should a potential substantial increase in volume materialize, the WT contingency plan will enable DTC to process as many as 30,000 WT transactions daily, over triple the current volume of 9,000 WTs daily. Because WT processing and the related direct mail service[5] are highly labor intensive operations for DTC and transfer agents alike, the WT contingency plan also provides a

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The proposed rule change is also applicable to DTC's Mortgage Backed Securities Division.

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] Securities Exchange Act Release No. 40696 (November 20, 1998), 63 FR 65829 (Commission order approving DTC's validation testing requirement).

[5] DTC's direct mail service is comprised of two components, direct mail by the agent (DMA) and direct mail by DTC (DMD). Participants may elect to use either DMA or DMD to have their newly issued WT securities mailed directly to customers by transfer agents or DTC, respectively.