in determining the degree of reliance it would place on another oversight system, it would consider the background, qualifications and independence of the persons involved in that oversight system. The PCAOB has stated, however, that it would consider a variety of factors with no single factor being determinative, and that its level of reliance will not depend on how similar the oversight system is to the PCAOB. One of these commenters also disagreed with the PCAOB's decision not to permit appeals of its determinations about reliance on other oversight systems, but welcomed the PCAOB's statement that it would discuss its determinations with the home country oversight body.

One commenter expressed concern that the PCAOB-designated ''expert'' on U.S. accounting and auditing matters might not be able to obtain full access to audit workpapers, due to conflicts with non-U.S. laws. That commenter encouraged the PCAOB to wait until it had more experience in working with non-U.S. oversight bodies before requiring that such an expert participate in each inspection, in order to avoid duplication of effort. The PCAOB's view is that using ''experts'' will help ensure that inspections of non-U.S. firms by foreign oversight bodies address compliance with U.S. requirements.

Two commenters expressed concern with PCAOB participation in non-U.S. oversight activities and argued for mutual recognition of other oversight systems if the U.S. and non-U.S. systems are equivalent. The PCAOB considered the possibility of instituting a mutual recognition system, but rejected that idea in favor of a system that gives the PCAOB more flexibility to determine how best to carry out its responsibilities under the Act. One of these commenters also noted the risk of multiple inspections and investigations of ''internationally active'' companies and the risk that such companies could be subject to duplicative sanctions for the same offense, but also welcomed the PCAOB's commitment to continued discussions of potential legal conflicts and its willingness to consider reciprocal assistance to other oversight bodies. A third commenter also suggested that the PCAOB take greater account of international law conflicts, which in some jurisdictions may prohibit or restrict the PCAOB from entering the jurisdiction to inspect or investigate local entities, unless there is an agreement with or cooperation from local authorities. We understand that the PCOAB is discussing these matters with its foreign counterparts.

Under the proposed rules the PCAOB has broad discretion in determining the extent to which, in carrying out its statutory authority to inspect and investigate registered public accounting firms, it will rely on the work of non-U.S. oversight systems, and the extent to which it will provide assistance to non-U.S. oversight systems. Many of the issues relating to implementation of the proposed cooperative framework will be negotiated by the PCAOB on a case-by-case basis with non-U.S. oversight bodies in those jurisdictions where such an oversight body exists. Like the United States, other jurisdictions also are in the process of developing or strengthening their own systems for auditor oversight. We encourage the PCAOB to continue its discussions with non-U.S. oversight bodies and to consider ways it can work cooperatively with its foreign counterparts to carry out its responsibilities under the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rules are consistent with the requirements of the Act and the securities laws and are necessary and appropriate in the public interest and for the protection of investors.

It is therefore ordered, pursuant to section 107 of the Act and section 19(b)(2) of the Exchange Act, that the proposed rules governing oversight of non-U.S. registered public accounting firms (File No. PCAOB–2004–04) be and hereby are approved.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–2072 Filed 9–3–04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50292; File No. SR–CBOE–2004–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Extending a Limited Pilot Program for Maximum Bid/Ask Differentials

August 31, 2004.

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 July 7, 2004, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted 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 Exchange. On August 19, 2004, the Exchange filed Amendment No. 1 to the proposed rule change.[3] In Amendment No. 1, CBOE changed the filing from a proposed rule change filed under Section 19(b)(2)of the Act [4] to one filed under Section 19(b)(3)(A) of the Act.[5] Specifically, the Exchange designated its filing as non-controversial pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and to Rule 19b–4(f)(6).[7] Accordingly, the proposed rule change became effective upon filing Amendment No. 1 on August 19, 2004. The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its rules to extend a limited pilot program relating to maximum bid/ask differentials.[8] The text of the proposed rule change, as amended, is available at the offices of the Exchange and the Commission's Public Reference Room.

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, 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. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

[2] 17 CFR 240.19b–4.

[3] *See* letter from Angelo Evangelou, Senior Attorney, CBOE, to Kelly M. Riley, Assistant Director, Division of Market Regulation, Commission, dated August 19, 2004 (''Amendment No. 1''). In Amendment No. 1, the Exchange submitted a new Form 19b–4, which replaced and superseded the original filing in its entirety.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 7 17 CFR 240.19b–4(f)(6).

[8] *See* Securities Exchange Act Release No. 48471 (September 10, 2003), 68 FR 54251 (September 16, 2003) (SR–CBOE–2003–08).

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

1. Purpose

The Exchange is proposing to extend a limited pilot exemption to the Market-Maker bid/ask differential requirements contained in CBOE Rule 8.7(b)(iv). As part of accommodating compliance with the Linkage Plan,[9] the Exchange introduced an ''autofade'' functionality which causes one side of CBOE's disseminated quote to move to an inferior price when the quote is required to fade pursuant to the terms of the Linkage Plan and/or when the size associated with the quote has been depleted by the Retail Automatic Execution System (''RAES'') (of both Linkage orders and non-Linkage orders).

Linkage orders are generally Immediate or Cancel limit orders priced at the national best bid or offer (''NBBO'') that must be acted upon within 15 seconds. The Linkage Plan provides several instances in which a Participant receiving a linkage order must fade its quote. For example, if a Participant receives a Principal Acting as Agent (''PA'') order for a size greater than the Firm Customer Quote Size and does not execute the entirety of the PA Order within 15 seconds, the Participant is required to fade its quote. CBOE's autofade functionality automates the fading process to ensure that members (and the Exchange) are in full compliance with this aspect of the Linkage Plan. Autofade moves CBOE's quote to a price that is 1-tick inferior to the NBBO.[10] This ensures that the Exchange will not immediately receive additional linkage orders to allow the member to refresh the quote (either manually or through an autoquote update).

As mentioned above, autofade also applies anytime an automatic execution (of any order) via RAES has depleted the size of CBOE's quote. Once a quote is exhausted, autofade moves the quote to a price that is 1-tick inferior to the NBBO (as described above). Autofade is only necessary for classes that are not on the Exchange Hybrid System. Thus, this exemption is only needed until the full rollout of the Hybrid System is completed.

For equity option classes that are not trading on the Hybrid System, the CBOE quote is generally derived from an autoquote system that is maintained by the Designated Primary Market-Maker (''DPM''). Certain DPMs utilize an Exchange-provided autoquote system while others employ proprietary autoquote systems. In either case, the autoquote system calculates bid and ask *prices* that are transmitted to the Exchange for dissemination to the Options Price Reporting Authority (''OPRA''). The DPM and the trading crowd separately input the *size* associated with the bid/ask prices. When an automatic execution occurs through the RAES system, the size associated with the quote is decremented until it is exhausted. However, because the autoquote system is only calculating prices and not quote sizes, the autoquote system is not aware that the size has been exhausted (or in the case of a remaining balance on a Linkage order, that the quote needs to fade in order to comply with the Linkage Plan). Therefore, the autofade functionality was built to override autoquote and move the quote price to 1-tick inferior to the NBBO. The ''override'' period only lasts for 30 seconds. However, the override can be overridden during that 30-second time period if the quote is manually updated by a trader or if the autoquote system transmits new bid/ask pricing to the Exchange.

The exemption is for limited instances where the autofade functionality moves the quote in a manner that causes the quote width to widen beyond the bid/ask parameters provided pursuant to CBOE Rule 8.7(b)(iv). CBOE seeks to extend on a pilot basis the temporary exception to the requirements of CBOE Rule 8.7(b)(iv) in cases where *autofade* causes a quote that exceeds the quote width parameters of that rule. The proposed exemption period lasts for a maximum of 30 seconds after any given autofade that caused a wider quote than allowed under CBOE Rule 8.7(b)(iv). Thus, to the extent a quote remained outside of the maximum width after the 30-second time period, the responsible broker or dealer disseminating the quote would be deemed in violation of CBOE Rule 8.7(b)(iv) for regulatory purposes. CBOE proposes that the pilot run until February 17, 2006 (for 18 months) when all multiply listed classes are trading on CBOE's Hybrid Trading System.

2. Statutory Basis

The Exchange represents that the proposed rule change, as amended, will, among other things, allow the Exchange to more easily comply with the requirements of the Linkage Plan. Accordingly, the Exchange believes the proposed rule change, as amended, is consistent with Section 6(b) of the Act[11] in general and furthers the objectives of Section 6(b)(5)[12] in particular in that it promotes just and equitable principles of trade, serves to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

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

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

The foregoing rule has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder[14] because the foregoing proposed rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change. 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.[15]

[9] The Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (''Linkage Plan'') was originally approved on July 28, 2000. *See* Securities Exchange Act Release No. 43086, 65 FR 48023 August 4, 2000).

[10] The only exception is when CBOE's NBBO quote (or next best quote) is represented by a customer order in the book. In such cases, the Exchange does not fade a booked order (it would have to be traded).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2004–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–CBOE–2004–39. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2004–39 and should be submitted on or before September 28, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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that period to commence on August 19, 2004, the date CBOE filed Amendment No. 1 to the proposed rule change. *See* 15 U.S.C. 78s(b)(3)(C).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50279; File No. SR–DTC–2004–08]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Investor's Voluntary Redemptions and Sales Service

August 27, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 2, 2004, The Depository Trust Company (''DTC'') filed a proposed rule change with the Securities and Exchange Commission (''Commission'') 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 enhance DTC's Investor's Voluntary Redemptions and Sales (''IVORS'') service to allow for the communication and processing of unit investment trust (''UIT'') rollover instructions.

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.[2]

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

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

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

Prior to this rule change, DTC participants holding expired UITs could only redeem such assets for cash or receive securities by book-entry and sell back to the UIT's sponsor in exchange for a cash payment.[3] The flow of instructions and confirmations typically occurs outside DTC using faxes or e-mails between the participant and the sponsor or sponsor's agent. Settlement of the transaction was usually accomplished by the submission of deposit/withdrawal at custodian (''DWAC'') instructions. This process was very manual and labor intensive and exposed participants, agents, and sponsors to risk and expense.

Under this proposed rule change, DTC will enhance its IVORS service to allow participants to rollover their current UIT into any of up to ten new UITs that the transfer agent or sponsor may have designated as being eligible for the rollover. Under the new procedures, the UIT transfer agent or sponsor will announce the details of an eligible UIT rollover using IVORS. Once announced, DTC will create a new communication code that will include the deadline for submitting rollover instructions thereby enabling participants to submit rollover instructions to their current UIT.

As with the current IVORS redemption function, prior to the transaction settlement date of the transaction, the transfer agent or sponsor enters the settlement details into IVORS. In the case of rollovers, these details will include the redemption price of the surrendered UIT, any accrued dividends that are payable, the purchase price of the new UIT, and any concession fee that may be payable. On settlement date, IVORS processes the necessary entries to debit the surrendered UITs and credit participants with the new UITs and any associated cash-in-lieu or other payments. All of this is accomplished within the IVORS system, eliminating the need to process faxed instructions and DWAC entries.

DTC's proposed rule is designed to eliminate unnecessary certificate movements, reduce and simplify cash movements, and synchronize the decisions of all parties involved in the rollover of UITs. The proposed rule

[3] Upon maturity (and in some cases earlier), most UITs allow a shareholder to take the redemption value of their holding and roll it over into a new series of UITs. These instructions are submitted prior to the deadline established by the transfer agent or sponsor.