

opening series of options; and (3) to clarify and reorganize Rules 5.4, 5.5, 5.6, and 5.7.

In addition, in SR-CBOE-97-23 CBOE also inadvertently and unintentionally deleted from Rule 5.4 two Interpretations that were then numbered .07 and .08. The deletion of these two Interpretations was neither discussed in the proposed rule change CBOE submitted, nor in the SEC order granting accelerated approval of the proposed rule change. Interpretations .07 and .08 read:

.07 When there is no open interest in a series the Exchange may delist such series. Delisting shall be preceded by a notice to member organizations concerning the delisting.

.08 Where a class of options contracts is open for trading on another national securities exchange, the Exchange may delist such class of options contracts. Delisting shall be preceded by a notice to member organizations concerning the delisting.

CBOE now proposes to add former Interpretation .07 to the current version of Rule 5.4 as Interpretation and Policy 12, and to add a new Interpretation and Policy .13 which is nearly identical to former Interpretation .08. In the proposed new Interpretation .13, CBOE describes the process for delisting option classes that are traded on more than one exchange, and also adds language describing the process for delisting option classes that are traded solely on CBOE.

The Exchange notes that proposed new Interpretation .12 is identical to American Stock Exchange Rule 903, Commentary .02 and Pacific Exchange Rule 6.4(a), Commentary .02.

2. Statutory Basis

The Exchange believes that the current proposal will allow the Exchange to provide investors with those options that are most useful and in demand without sacrificing any investor protection. Accordingly, the proposed rule change is consistent with section 6(b)⁶ of the Act, in general, and furthers the objectives of section 6(b)(5)⁷ in particular, in that it would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

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

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, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act,⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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.

Pursuant to Rule 19b-4(f)(6)(iii) under the Act,¹⁰ the proposal may not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the CBOE must file notice of its intent to file the proposed rule change at least five business days beforehand. The CBOE has requested that the Commission waive the five-day pre-filing requirement and the 30-day operative delay so that the proposed rule change will become immediately effective upon filing.

The Commission believes that waiving the five-day pre-filing provision and the 30-day operative delay is consistent with the protection of investors and the public interest.¹¹ The proposal merely replaces rule text that was inadvertently deleted. Also, the proposed rule change is consistent with the rules of other option exchanges that the Commission previously approved. For these reasons, the Commission

designates the proposed rule change as effective and operative immediately.

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 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 section, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file No. SR-CBOE-2003-04 and should be submitted by March 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 03-5082 Filed 3-4-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47410; File No. SR-DTC-2002-13]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change To Establish the Prospectus Repository System

February 26, 2003.

I. Introduction

On September 11, 2002, The Depository Trust Company filed with the Securities and Exchange Commission ("Commission") a proposed rule change File No. SR-DTC-2002-13 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹² 17 CRF 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).