

that it has historically initiated investigations of possible wrongdoing within its disciplinary jurisdiction.

First, the Exchange proposes to amend Exchange Rule 17.2(a) to make express what it represents is the Exchange's Regulatory Division's longstanding practice of initiating investigations of possible rule violations on its own whenever there is a reasonable basis to do so. For instance, among the reasons the Exchange's Regulatory Division may determine that there is a reasonable basis to initiate an investigation are: Results from the automated surveillance programs that the Regulatory Division operates that are designed to highlight particular types of misconduct, observations of the Regulatory Division's Trading Floor Liaison unit that has a consistent presence on the trading floor, regulatory referrals from Exchange committees or other self-regulatory organizations, and oral complaints from members or customers. The Exchange believes that the current language of Exchange Rule 17.2(a) could be read to suggest that the Exchange's Regulatory Division should only initiate investigations upon the order of the Board of Directors, the BCC, the President, or upon receipt of a written complaint. Although the CBOE represents that it has never interpreted Exchange Rule 17.2(a) in such a limited fashion, and believes such a reading would be inconsistent with the Exchange's obligations as a self-regulatory organization under the Act,<sup>4</sup> the Exchange believes amending Exchange Rule 17.2 is appropriate.

Second, the Exchange proposes to amend Exchange Rule 17.2(a) to provide that the Exchange shall investigate possible violations within its disciplinary jurisdiction upon receipt of a complaint, whether the complaint is written or oral, provided such complaint specifies in reasonable detail the facts constituting the alleged violation. The Exchange also proposes to add an interpretation to Exchange Rule 17.2 stating that, to assist the Exchange in investigating possible violations within its disciplinary jurisdiction, complainants should identify themselves when making a complaint, whether written or oral, and

identify the specific statutes, by-laws, rules, interpretations or resolutions that allegedly have been violated. In addition, the Exchange represents that its Regulatory Services Division currently maintains, and will continue to maintain, a log of all oral complaints that it receives alleging possible violations within the disciplinary jurisdiction of the Exchange.<sup>5</sup>

The Exchange believes that this proposed change to Exchange Rule 17.2 is consistent with its longstanding practice of considering whether to investigate complaints, whether oral or written, and is consistent with its practice of requesting, but not requiring, that complainants identify themselves and identify the specific statutes, by-laws, rules, interpretations or resolutions that allegedly have been violated.

## 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with the provisions of section 6(b) of the Act,<sup>6</sup> in general, and specifically furthers the objectives of sections 6(b)(1),<sup>7</sup> 6(b)(5),<sup>8</sup> 6(b)(6),<sup>9</sup> and 6(b)(7)<sup>10</sup> of the Act, in particular, in that it will enhance the ability of the Exchange to enforce compliance by its members and persons associated with its members with provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. It will help ensure that members and persons associated with members are appropriately disciplined when they violate those provisions.

### *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 Exchange 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-2003-15 and should be submitted by July 14, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48008; File No. SR-DTC-2002-08]

### Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Unitary Action Procedures

June 10, 2003.

On June 13, 2002, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change

<sup>4</sup> For instance, the CBOE represents that the Act states that a self-regulatory organization ("SRO") is required to be organized so that it is able to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the SRO's own rules (section 6(b)(1) of the Act), and further that an SRO's rules must be "designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade," and in general "to protect investors and the public interest" (section 6(b)(5) of the Act).

<sup>5</sup> See Amendment No. 1, *supra* note 1.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(1).

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

<sup>9</sup> 15 U.S.C. 78f(b)(6).

<sup>10</sup> 15 U.S.C. 78f(b)(7).

<sup>11</sup> 17 CFR 200.30-3(a)(12).