

or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* December 1, 1995.

Time: 8:30 a.m. to 5 p.m.

Room: 415

Program: This meeting will review applications submitted to Library and Archival Preservation and Access Projects, submitted to the Division of Preservation and Access Projects, for projects beginning after May 1, 1996.

Sharon I. Block,

Advisory Committee Management Officer.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36475; File No. SR-CBOE-95-61]

November 9, 1995.

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Arbitration Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 31, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") 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 by the CBOE. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (e)(6) of Rule 19b-4 under the Act which renders the proposal effective upon receipt of this filing by the Commission.¹ The Commission is publishing this notice to

¹ The CBOE has represented that this proposed rule change: (i) will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition, and (iii) will not become operative for 30 days after the date of this filing. The CBOE also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b-4(e)(6) under the Act.

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 certain provisions in Chapter XVIII, "Arbitration," of the Rules of the CBOE.² Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Chicago Board Options Exchange Inc.—
Rules

* * * * *

Chapter XVIII—Arbitration

* * * * *

Procedure in Member Controversies

Rule 18.2 The following procedures shall apply in any dispute, claim or controversy between parties who are members or persons associated with a member which is submitted for arbitration pursuant to Rule 18.1(a):

(a) Selection of Arbitrators. The arbitration panel shall be selected by the [Chairman of the Arbitration Committee] *Director of Arbitration* and shall consist of not less than three members of the *Arbitration Committee*.

(b) [Peremptory] Challenges. Each party to the dispute may peremptorily challenge any person appointed to the arbitration panel. There shall be no fixed limit on the number of peremptory challenges by a party; however, no party may assert an unreasonable number of challenges. [The Chairman of the Arbitration Committee] *The Director of Arbitration* shall deny peremptory challenges if both [he and] the Director of Arbitration *and the Chairman of the Arbitration Committee* agree that the number of such challenges by a party has been unreasonable. *Unless extended by the Director of Arbitration, a party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within five (5) business days of notification of the identity of the person(s) named under Rule 18.11 or Rule 18.22 (d) or (e), whichever comes first. There shall be unlimited challenges for cause.*

[(c) The minimum filing deposit and fee shall be \$75.00. If the claim would require a higher filing deposit and fee under Rule 18.33, the higher amount shall be required. In the event that a matter is resolved prior to the hearing, a minimum of \$50.00 of the filing deposit will be retained by the Exchange.]

² CBOE Guide, Rules, Chapter XVIII (CCH) ¶¶2513-2540D.

[(d) (c) [Additional provisions relating to member controversies are set forth [beginning at] in Rule 18.34] *In any arbitration concerning the alleged failure to pay for floor brokerage services, the following additional provisions shall apply:*

(1) *In order to commence such a proceeding, the claimant shall include with his statement of claim the following: (1) Copies of billing copies of order tickets relating to the unpaid brokerage; (ii) copies of monthly bills reflecting the unpaid brokerage; (iii) copies of evidence reflecting the claimant's post-billing efforts to collect the unpaid brokerage; and (iv) a certification of any efforts, not reflected in writing, made to collect the unpaid brokerage.*

(2) *If the arbitrators find that the respondent knowingly and purposefully failed to pay for floor brokerage services, and such failure was without sufficient justification or excuse, then the arbitrators have the authority to award up to two times the amount of the brokerage bill, in addition to whatever determinations the arbitrators may ordinarily make concerning arbitration fees, interest, and attorney's fees or other expenses.*

[(e) (d) General. Subject to the foregoing [exceptions] *provisions of this Rule* the [provisions] *other Rules* of [the Uniform Arbitration Code contained in Rules 18.5 through 18.33] *Chapter 18* shall apply to *arbitrations between members except for those provisions specifically applicable to arbitrations [except insofar as such provisions specifically apply to matters] involving public customers.*

* * * * *

[Payment for Floor Brokerage Services]

[Rule 18.34 In any arbitration between parties who are members or persons associated with a member concerning the alleged failure to pay for floor brokerage services, Chapter XVIII shall be supplemented by the following provisions:

(a) In order to commence such a proceeding, the claimant shall include with his statement of claim the following: (1) Copies of billing copies of order tickets relating to the unpaid brokerage; (2) copies of monthly bills reflecting the unpaid brokerage; (3) copies of evidence reflecting the claimant's post-billing efforts to collect the unpaid brokerage; and (4) a certification of any efforts, not reflected in writing, made to collect the unpaid brokerage.

(b) If the arbitrators find that the respondent knowingly and purposefully failed to pay for floor brokerage services,

and such failure was without sufficient justification or excuse, then the arbitrators have the authority to award up to two times the amount of the brokerage bill, in addition, to whatever determinations the arbitrators may ordinarily make concerning arbitration fees, interest, and attorney's fees or other expenses.]

* * * * *

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. 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, Proposed Rule Change

The purpose of this rule change is to revise certain Exchange rules governing arbitration procedures. First, the authority of the Director of Arbitration to appoint the arbitration panels in disputes between members will be codified. Currently, paragraph (a) of CBOE Rule 18.2 specifies that the Chairman of the Arbitration Committee shall appoint the arbitration panel. However, in practice, the Chairman of the Arbitration Committee delegates the authority to select the panel to the Director of Arbitration, the Exchange employee charged with administering CBOE's arbitration forum. Therefore, this change would conform the rule to current practice. It should also be noted that in disputes between non-members and members or persons associated with members, the Director of Arbitration is authorized, under Exchange Rules 18.4 and 18.10, to appoint a sole arbitrator and the members of an arbitration panel. Thus, this rule change will make the rules governing the selection of arbitrators consistent.

A second change would more closely conform Rule 18.2 with a rule governing arbitrations in non-member disputes. Rule 18.12, *Challenges*, authorizes the Director of Arbitration to award additional peremptory challenges and to extend the time for exercising peremptory challenges. Paragraph (b) of Rule 18.2 would be changed to grant the Director of Arbitration the right to deny

peremptory challenges in member disputes, if both the Director and the Chairman of the Arbitration Committee agree that the number of such challenges has been unreasonable. In addition, paragraph (b) would set a five business day time limit for notifying the Director of Arbitration concerning peremptory challenges. Paragraph (b) would also state that there may be unlimited challenges for cause, consistent with Rule 18.12.

Existing paragraph (c) of Rule 18.2 is proposed to be deleted because the fees are already more completely governed by Rule 18.33, *Schedule of Fees*. In addition, the second sentence of existing paragraph (c) of Rule 18.2, which concerns the retention of \$50 of the filing deposit, is superseded by and inconsistent with paragraph (a) of Rule 18.33 which states that the filing fee is non-refundable.

Rule 18.34 will be deleted, and its provisions will be incorporated into Rule 18.2 as new paragraph (c). This change will combine in a single rule, related provisions governing procedures in member controversies.

Finally, a few editorial revisions, for clarification purposes, are proposed to be made to current paragraph (e), and that paragraph will be re-lettered as paragraph (d).

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and the protection of investors and the public interest by improving the administration of an impartial arbitration forum for the resolution of disputes between members, persons associated with members and public investors.

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

CBOE does not believe that the proposed rule change will impose any burden on competition.

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

This proposed rule filing has been filed by the Exchange as a "noncontroversial" rule change pursuant to paragraph (e)(6) of Rule 19b-4. Consequently, the rule change

will become operative thirty days after the filing of this rule proposal.

At any time within 60 days of the filing of such 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 the filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR-CBOE-95-61 and should be submitted by December 8, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-28400 Filed 11-16-95; 8:45 am]

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[Release No. 34-36476; File No. SR-DTC-95-16]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Modification of DTC's Reclamation Procedures

November 9, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 23, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule

¹ 15 U.S.C. 78s(b)(1) (1988).