creating a limited exception to CBOE Rule 6.74(a)(iii), proposed Interpretation and Policy .05 will permit orders represented by a single floor broker to participate equally with other bids and offers in the trading crowd by allowing the floor broker to cross those number of contracts of the resting order with the subsequent market or marketable limit order to the same extent as if those orders were represented by different floor brokers, thereby eliminating a competitive disadvantage that may arise currently under CBOE Rule 6.74(a).

CBOE Rule 6.74(a)(ii) requires a floor broker seeking to cross orders to (A) bid above the highest bid in the market and give a corresponding offer at the same price or at prices differing by the minimum fraction or (B) offer below the lowest offer in the market and give a corresponding bid at the same price or at prices differing by the minimum fraction. CBOE Rule 6.74(a)(iii) allows the floor broker to cross the orders if the trading crowd does not take the higher bid or lower offer. However, the CBOE states that it is likely that the trading crowd will take the floor broker's bid or offer, thereby leaving either the resting order or the subsequent market or marketable limit order unfilled. By creating an exception to the provision of CBOE Rule 6.74(a)(iii) that permits a cross only if the floor broker's higher bid or lower offer is not taken, proposed Interpretation and Policy .05 will allow a resting order and a subsequent market or marketable limit order represented by a single floor broker to participate equally with other bids and offers at the same price to the same extent as if those orders were represented by different floor brokers.[13]

Thus, as noted above, proposed Interpretation and Policy .05 will allow a floor broker representing a resting limit order to buy at $10 in a 10–10¼ market to compete equally with four market makers in the trading crowd who are also bidding at $10 for a market order to sell 20 contracts, so that the floor broker will be able to cross four contracts of his resting order with four contracts of the market order. The market makers will take the remaining 16 contracts of the market order. In contrast, under the CBOE's current rule, the market makers could take the entire offer to sell 20 contracts at $10, leaving the resting limit order unfilled even though the resting order also bid $10 (an amount equal to the highest bid in the market) and had been represented in the crowd for as long as the bids of the market makers.[14]

Accordingly, the Commission believes that the proposal is a reasonable effort to modify CBOE Rule 6.74(a)(iii) to ensure that certain equity option orders are not disadvantaged solely because they are represented by a single floor broker. At the same time, the proposal maintains the safeguards provided in CBOE Rule 6.74(a) by requiring floor brokers to comply with the order exposure and price improvement provisions of CBOE Rule 6.74(a) (i) and (ii) before being eligible for the proposed exception to CBOE Rule 6.74(a)(iii). In addition, proposed Interpretation and Policy .05 applies to a floor broker who has been ''continuously representing'' a resting order.[15] The Commission believes that the requirements of CBOE Rule 6.74(a) (i) and (ii), together with the requirement that a floor broker continuously represent a resting order before claiming the proposed exception to CBOE Rule 6.74(a)(iii), will help to ensure that orders represented by a floor broker who claims the proposed exception will have an opportunity to interact with orders in the trading crowd.

The Commission notes that after invoking the exception, the floor broker remains subject to the requirement in CBOE Rule 6.74(a)(iii) that the floor broker announce by open outcry that he is crossing and give the quantity and price at which the cross took place. Finally, the due diligence and other provisions of CBOE Rule 6.74 continue to apply, as well as the CBOE rules pertaining to solicited orders, facilitation crosses, and the priority provisions of CBOE Rule 6.45.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 1 strengthens and clarifies the CBOE's proposal by indicating that a floor broker must comply with the order exposure and price improvement provisions of CBOE Rule 6.74(a)(i) and (ii) and, after invoking the exception, must announce by open outcry that he is crossing and give the quantity and price at which the cross took place. In addition, Amendment No. 1 further clarifies the proposal by defining the terms ''continuously representing'' and ''compete equally'' as they are used in the proposal. Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

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, N.W., Washington, D.C. 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 at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 12, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the rule change (File No. SR–CBOE–95–33), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3633 Filed 2–16–96; 8:45 am]

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[13] The CBOE believes that the exception provided by proposed Interpretation and Policy .05 will be claimed infrequently, both because the proposed exception applies only in very limited circumstances, and because even in the limited applicable circumstances most trading crowds do not use the crossing rule to prevent a resting order from competing equally with other bids or offers in the market or to trade ahead of market or marketable limit orders. The CBOE expects that the proposed exception will be claimed by floor brokers in equity option crowds that preclude floor brokers from crossing orders or in equity trading crowds that have only one full time floor broker and where the volume in the option series to be crossed is limited. *See* Amendment No. 1, *supra* note 4.

[14] Alternatively, if the market makers wish to sell at $10 and take the entire resting limit order, proposed Interpretation and Policy .05 will allow the floor broker to compete equally with the market makers' offers and cross four contracts of the resting order with four contracts of subsequent market order. The market makers will take the remaining contracts in the resting order.

[15] *See* note 6, *supra.*

[16] 15 U.S.C. 78s(b)(2) (1982).

[17] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36828; File No. SR–CHX–96–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Maximum Monthly Transaction Fees and Other Processing Fees

February 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 25, 1996 the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed 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 self-regulatory organization. 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 Exchange proposes to amend Section (d) of, and add Section (r) to, its Membership Dues and Fees Schedule.

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 self-regulatory organization 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 self-regulatory organization 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

1. Purpose

The purpose of the proposed rule change is to add an alternative monthly cap on transaction fees for certain orders. These orders (except orders of specialists, orders in NASDAQ/NMS Securities,[2] and orders of a floor broker acting in the capacity as a principal)[3] will be charged a maximum monthly transaction fee based on $.45 per 100 average monthly gross round lot shares.[4] This alternative monthly cap on transaction fees is in addition to the current monthly cap on transaction fees of $45,000 per month for firms with a floor broker or market maker presence on the Floor and $65,000 per month for firms without a floor broker or market maker presence on the Floor.[5] The filing also codifies the Exchange's current practice of rebilling members and member organizations the Exchange's cost in taking and processing fingerprints and conducting background checks.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[6] in general and furthers the objectives of Section 6(b)(4)[7] in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

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

The Exchange believes the proposed rule change does not impose any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (e) of Rule 19b–4 thereunder.[9]

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

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, D.C. 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 at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–96–04 and should be submitted by March 12, 1996.

For the Commission, by Division of Market Regulation, pursuant to delegated authority.[10]

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

[2] The Commission notes that the National Association of Securities Dealers, Inc. refers to such securities as ''Nasdaq National Market securities.'' In order to maintain consistency within its rules, however, the Exchange still utilizes the term ''NASDAQ/NMS Securities.'' The Exchange intends to update this aspect of its rules at a later date. Telephone conversation between David T. Rusoff, Attorney, Foley & Lardner, and Anthony P. Pecora, Attorney, SEC (Jan. 16, 1996).

[3] These orders are subject to different rules concerning transaction fees. For example, Nasdaq National Market securities are not charged transaction fees, while transaction fees for specialists and floor brokers acting as principals are not subject to monthly caps. *See* CHX Fee Schedule §§ (d)(4)–(6).

[4] For example, transaction fees for a 2,500 share limit order would be zero for the first 500 shares of the order and $0.0075 per share for the next 2,000 shares for a total transaction charge of $15.00 per side (2,000 shares multiplied by $0.0075), with an average round lot share charge of $0.60 per round lot ($15.00 divided by 25 round lots. If, in a particular month, a firm's total business consisted solely of 1,000 limit orders for 2,500 shares, its transaction fees for that month normally would be $15,000.00, with an average round lot share charge of $0.60 per round lot. This proposal, however, would reduce the average round lot share charge to $0.45 per round lot and, in turn, reduce the firm's transaction fees for that month to $11,250.00.

Although the CHX does not impose a transaction fee on market orders sent via the CHX's MAX system, the Commission notes that such orders are nonetheless included in calculating a firm's monthly average round lot share charge. Telephone conversation between David T. Rusoff, Attorney, Foley & Lardner, and Anthony P. Pecora, Attorney, SEC (Jan. 29, 1996).

[5] *See* CHX Fee Schedule §§ (d)(3)(ii)–(iv).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4.

[10] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96–3668 Filed 2–16–96; 8:45 am]
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[Release No. 34–36837; File No. SR-DTC–96–02]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Principal and Income Payments to Participants

February 13, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 23, 1996, The Depository Trust Company (''DTC'') filed 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 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 purpose of the proposed rule change is to clarify and restate several procedures related to DTC's payment of principal and income (''P&I'') to participants.

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]

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

The purpose of the proposed rule change is to clarify and restate DTC procedures for the payment of P&I in light of the planned conversion of DTC's money settlement system to an entirely same-day funds settlement (''SDFS'') system.

In the current next-day funds settlement (''NDFS'') and SDFS systems, DTC often earns interest overnight on P&I payments received by DTC on the payment date in same-day funds and paid to participants in next-day funds. At the end of each month, DTC distributes or refunds that month's overnight interest earnings to participants on a pro rata basis.[3] After DTC converts entirely to an SDFS system, which conversion is scheduled for February 22, 1996, it will normally pay P&I in same-day funds. Because overnight interest on such payments will decrease dramatically, monthly refunds to participants correspondingly will be much smaller. When interest is earned due to exceptional conditions, DTC will distribute refunds to its participants in conformity with its present rule.

Currently, DTC sometimes credits participants in next-day funds on the payable date for P&I payments not yet received. In many cases, the money is received in same-day funds after DTC has settled with its participant but before the end of the business day on the payable date. Consequently, the money is available for next-day funds payments to participants on the payable date. After the conversion to an entirely SDFS system, P&I payments made after 2:30 p.m. (eastern standard time) on the payable date may be received by DTC too late to fund payments to participants in a net credit position but early enough to avoid the need for an overnight borrowing. DTC has extensive historical business records of its dealings with paying agents and has developed a model to predict which late P&I payments received after DTC's settlement should nevertheless come in early enough to avoid the need to borrow overnight. Based upon this historical mode, in some cases of late P&I payments DTC will make a final allocation at approximately 4:00 p.m. to participants for such P&I payments in anticipation of receipt of good funds (*i.e.*, same-day funds) from the paying agent later on that same business day. In order to do so, DTC has to be prepared to take out an intraday or overnight loan when necessary. Therefore, DTC will commit to a line of credit. The commitment cost will be charged to participants monthly on a pro rata basis based on the P&I payments each participant received during the previous calendar year or other reasonably determined period. This commitment charge will be assessed whether or not borrowing was necessary during that month. On occasions when there is borrowing, the interest cost of the loan will be assessed on a pro rata basis among participants receiving payments on the payable date(s) that were funded by such borrowing. Each participant will receive a statement that will identify issues and/or issuers and their agents that paid DTC late and the participant's share of the interest cost for each one.

DTC believes that the proposed rule change is consistent with Section 17A of the Act[4] and the rules and regulations thereunder because it will provide for the equitable allocation of dues, fees, and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have an impact on or impose a 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

In 1990, after reviewing the recommendations of the Group of Thirty,[5] the U.S. Working Committee, Group of Thirty, Clearance and Settlement Project concluded, among other things, that depositories should pay dividends, interest, redemption, and reorganization payments to their

[1] 15 U.S.C. 78s(b)(1) (1988).

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

[3] For a description of DTC's P&I payment refund procedures, refer to Securities Exchange Act Release Nos. 17203 (October 8, 1980), 45 FR 68817 [File No. SR–DTC–80–06] (notice of filing and immediate effectiveness of a proposed rule change implementing a refund policy); 23219 (May 8, 1986), 51 FR 17845 [File No. SR–DTC–86–03] (notice of filing and immediate effectiveness of a proposed rule change modifying procedures for crediting corporate cash P&I payments); 23686 (October 7, 1986), 51 FR 37104 [File No. SR–DTC–86–04] (order approving a proposed rule change modifying DTC's procedures regarding crediting P&I payments, charging back P&I payments, and refunding dividend investment income to paying agents); and 25869 (June 30, 1988), 53 FR 25557 [File No. SR–DTC–88–08] (notice of filing and immediate effectiveness of a proposed rule change modifying procedures to allocate to participants P&I payments on SDFS securities in next-day funds on payable date).

[4] 15 U.S.C. 78q–1 (1988).

[5] The Group of Thirty was established in 1978 as an independent, nonpartisan, nonprofit organization composed of international financial leaders whose focus is on international economic and financial issues. In March 1989, the group approved a report setting forth nine recommendations for improving and harmonizing securities clearance and settlement systems in the world's principal markets. Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets (March 1989).