

customer's order is completely filled at the best price. Without asking for such a joint response, the member would assume a risk that the market would move substantially as the member attempts to execute the whole order in pieces against individual market makers at different prices.⁶

Proposed Interpretation and Policy .11 to CBOE Rule 8.7.11 would allow CBOE market makers to respond to a member's request for a quick and certain market. The proposed rule change would permit market makers jointly to discuss a request from a member for a single order that is greater in size than the RAES order eligibility size for that option class, in order to provide a single bid or offer, based upon the aggregate of individual bids or offers by members in the trading crowd. Such coordination would only be permitted in situations where the member representing the order requests a single bid or offer. When a single bid or offer made in response to a request results in the order being executed, the order will be apportioned among the market makers who participated in making the single bid or offer according to the number of contracts each market participant committed to trading, and each market maker shall be obligated to fulfill his portion of the single bid or offer at the single price.⁷

The CBOE believes that proposed Interpretation and Policy .11 to CBOE Rule 8.7 would enhance competition among markets. CBOE's market makers must be able to respond to requests for a single large order from a member in the face of competition from other exchanges that have specialists who are better able to provide a single response to large bids and offers. Moreover, because proposed Interpretation and Policy 8.7.11 would allow CBOE market makers to respond to a specific request, the CBOE believes it would enhance the ability of the Exchange to respond to requests for immediate executions at disseminated prices.

⁶ Without asking for a joint response, a member may not know until it is too late whether he will have satisfied the customer's entire order if he fills the order in pieces against individual market-makers at different prices. The CBOE believes that a member who does not ask for a joint response takes a risk that the market will move substantially as the member executes the order in parts against different market-makers at different prices against whom he must mark up different order tickets or against whom he must make separate inputs into his electronic trading unit.

⁷ The Exchange has submitted another proposed rule change (SR-CBOE-2002-08) relating to allocation of trades, including trades pursuant to proposed Interpretation and Policy .11 to CBOE Rule 8.7.11.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general and furthers the objectives of Section 6(b)(5)⁹ in particular in that it is designed to promote just and equitable principles of trade, remove impediments to 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 proposed rule change, as amended, would provide for limited joint participation among competing CBOE market makers in a trading crowd in certain circumstances. The Exchange believes this limited joint participation is justified by the benefits to the marketplace from this proposal. According to the Exchange, the effect of this aggregate response proposal would be to allow the market maker trading crowds to compete more effectively for order flow with specialists from other options exchanges by providing enhanced opportunities for best execution of customer orders on the CBOE. As a result, the Exchange believes the limited joint activity described in this rule proposal is justified by and furthers the objectives of Section 11A(a)(1)(C)(ii) of the Act¹⁰ by assuring fair competition among markets. The Exchange believes that the proposed rule also is consistent with and furthers the objectives of Section 6(b)(5) of the Act¹¹ in that it is designed to remove impediments to a free and open market and protecting investors and the public interest.

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 CBOE consents, the Commission will:

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78k-1(a)(1)(C)(ii).

¹¹ 15 U.S.C. 78f(b)(5).

(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 filings will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the File No. SR-CBOE-2001-65 and should be submitted by April 8, 2002.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45538; File No. SR-CSE-2002-02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Cincinnati Stock Exchange, Incorporated To Amend Trading Rules To Eliminate References to Fractional Price Variations

March 12, 2002.

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 March 4, 2002, The Cincinnati Stock Exchange, Incorporated ("CSE" or "Exchange") filed with the Securities and Exchange

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 CSE proposes to activate the provisions of CSE Rules 11.3(a) and (c) to eliminate Rules 11.3(a) and (c) upon the completion of decimal conversion. The text of the proposed rule change is below. Proposed deletions are in brackets.

Rule 11.3 Price Variations

[(a) Bids or offers in stocks traded on the Exchange at or above \$1.00 per share shall not be made at a smaller variation than $\frac{1}{8}$ of \$1.00 per share; in stocks below \$1.00 but at or above $\frac{1}{2}$ of \$1.00 per share, at a smaller variation than $\frac{1}{6}$ of \$1.00; in stocks below $\frac{1}{2}$ of \$1.00 per share, at a smaller variation than $\frac{1}{32}$ of \$1.00 per share; and in bonds at a smaller variation than $\frac{1}{8}$ of 1% of the principal amount, except in the case of a dually or multiply-traded security where the principal exchange shall have a different rule or when the Board of Trustees of the Exchange shall provide otherwise. (Rule 11.3(a) will be eliminated upon completion of decimal conversion.)]

[(b)] Bids or offers in stocks traded on the Exchange shall not be made at a smaller variation than \$.01 per share; and in bonds at a smaller variation than $\frac{1}{8}$ of 1% of the principal amount.

[(c) Notwithstanding (b) above, bids and offers in stocks not participating in the decimal pilot program and not converted to decimal pricing at or above \$1.00 per share must be made in fractions at a minimum variation of $\frac{1}{16}$ per share. The minimum variation of .01 described in (b) above is applicable to stocks that have been converted to decimal pricing. (Rule 11.3(c) will be eliminated upon completion of the decimal conversion.)]

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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 CSE proposes to eliminate references to fractional price variations in stocks traded on the Exchange. In implementing the conversion to decimal pricing, the Exchange added provisions to Rules 11.3(a) and (c) that called for the elimination of said rules upon completion of the decimal conversion process.³ With decimal pricing now fully implemented, the Exchange is now activating the previously approved clauses that eliminate 11.3(a) and (c). With regard to all equity securities, Rule 11.3 will reflect only decimal pricing upon approval of this proposed rule change.

2. Statutory Basis

The CSE believes that the proposed rule change is consistent with Section 6(b) of the Act⁴ in general and furthers the objectives of Section 6(b)(5)⁵ in particular. The CSE believes the proposed rule change is consistent with Section 6(b)(5)⁶ in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No comments were solicited or received in connection with 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**

³ See Securities Exchange Act Release No. 43408 (October 3, 2000), 65 FR 60708 (October 12, 2000) (order approving CSE Rules that accommodate the implementation of decimal pricing).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(5).

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 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to file No. SR-CSE-2002-02 and should be submitted by April 8, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45540; File No. SR-DTC-2001-16]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to Technical Language Changes to Certain DTC Rules

March 12, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

⁷ 17 CFR 200.30-3(a)(12).