

change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2004-86 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-CBOE-2004-86. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2004-86 and should be submitted on or before August 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52111; File No. SR-CBOE-2005-52]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Extension of Its Prospective Fee Reduction Program

July 22, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 30, 2005, 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, II, and III below, which items have been prepared by CBOE. 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

CBOE proposes to amend its Fees Schedule to extend the Prospective Fee Reduction Program through the close of the current Exchange fiscal year on December 31, 2005. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

### CHICAGO BOARD OPTIONS EXCHANGE, INC. FEES SCHEDULE [MAY 23]JUNE 30, 2005

1.-4. Unchanged.

Footnotes: (1)-(16) Unchanged.

5.-18. Unchanged.

### 19. PROSPECTIVE FEE REDUCTION PROGRAM

Fee reductions will be in effect August 1, 2004 *through December 31, 2005* under the following scenarios:

If CBOE volume exceeds predetermined average contracts per day (CPD) thresholds at the end of any month on a fiscal year-to-date (YTD) basis, Market-Maker and DPM transaction and floor brokerage fees will be reduced in the subsequent month according to the schedule presented below:

FY05 YTD avg. CPD	Fees discount (percent)	Equities market-maker reductions	QQQQ/SPDR/Index market-maker/DPM reductions	Equities DPM trans. fees reductions	Floor brokerage reductions
1,300,000 .....	10	\$.022	\$.024	\$.012	\$.004
1,400,000 .....	15	.033	.036	.018	.006
1,500,000 .....	20	.044	.048	.024	.008
1,600,000 .....	25	.055	.060	.030	.010
1,700,000 .....	30	.066	.072	.036	.012
1,800,000 .....	35	.077	.084	.042	.014
1,900,000 .....	40	.088	.096	.048	.016
2,000,000 .....	45	.099	.108	.054	.018

20.-23. Unchanged.

Remainder of Fee Schedule—Unchanged.

\* \* \* \*

### 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.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

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

1. Purpose

The Exchange proposes to continue the Prospective Fee Reduction Program ("Program") through the close of the current Exchange fiscal year on December 31, 2005.<sup>3</sup> No other changes to the Program are proposed. The current Program took effect on August 1, 2004.<sup>4</sup> The Program is intended to reduce Market-Maker and DPM transaction fees in periods of high volume. As before, the Exchange will continue to monitor its financial results to determine whether the Program should be continued, modified, or eliminated in the future.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

*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 that is not necessary or appropriate in furtherance of 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 rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to

section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(2) thereunder.<sup>8</sup> At any time within 60 days of the filing of the 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, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2005-52 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-CBOE-2005-52. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2005-52 and should be submitted on or before August 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-52104; File No. SR-DTC-2005-06]

**Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to an Enhancement of the SMART/Track Service**

July 21, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 29, 2005, 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**

DTC proposes to add a new Agency Lending Disclosure feature to its SMART/Track service. The new feature will enable securities agent lenders to disclose to securities borrowers information regarding the principal lenders of securities loans.

**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,

<sup>3</sup> The Exchange also proposes certain minor clarifying changes to the table headings in section 19 of the Fees Schedule to reconcile those headings with a previous rule change. See Securities Exchange Act Release No. 51027 (January 12, 2005), 70 FR 3407 (January 24, 2005). CBOE represents that the instant proposed rule change imposes no new fees or fees reductions. Telephone conversation between Steve L. Kuan, Special Counsel, Division of Market Regulation, Commission, and Jaime Galvan, Assistant Secretary, CBOE, on July 14, 2005.

<sup>4</sup> See Securities Exchange Act Release No. 50175 (August 10, 2004), 69 FR 51129 (August 17, 2004).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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