

Exchange notes that pursuant to current CBOE Rule 24.4(d), positions in Regular-Size Volatility Index Options (up to 250,000 contracts) and each of their respective Increased-Value Volatility Index Options (up to 25,000 contracts) would be aggregated in order to determine compliance with position limits.

## 2. Statutory Basis

By placing position and exercise limits for Regular-Size Volatility Index Options on a more equivalent basis to the position limits of the underlying index options that such volatility indexes track and proportional to the position limits on the Increased-Size Volatility Index Options, the Exchange believes that this proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and further the objectives of Section 6(b)(5) in particular,<sup>11</sup> in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of 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 Exchange 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

The Exchange neither solicited nor received comments on the proposal.

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

The foregoing proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder<sup>13</sup> because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such

shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6)<sup>15</sup> thereunder.

The Exchange has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay.<sup>16</sup> The Commission is exercising its authority to waive the five-day pre-filing notice requirement and believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative delay would allow CBOE to implement the new position and exercise limits for Regular-Size Volatility Index Options immediately for the benefit of large volume traders of these options. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>17</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 the 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-2006-26 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2006-26. This file

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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, 100 F Street, NE., Washington, DC 20549-1090. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-2006-26 and should be submitted on or before April 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-3899 Filed 3-16-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53471; File No. SR-DTC-2005-21]

### Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Implement and Revise Fees Related to Non-Participant Services

March 13, 2006.

## I. Introduction

On December 20, 2005, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on December 20, 2005, January 23, 2006, and January 25, 2006,<sup>1</sup> amended the proposed rule change SR-DTC-2005-21 pursuant to section 19(b)(1) of the

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> The proposed rule change filing was amended twice on January 25, 2006.

Exchange Act Release No. 51220 (February 17, 2005), 70 FR 9398 (February 25, 2005) ("Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Reduced-Value Options on the Russell 2000 Stock Index").

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

Securities Exchange Act of 1934 ("Act").<sup>2</sup> Notice of the proposal as amended was published in the **Federal Register** on February 9, 2006.<sup>3</sup> The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

## II. Description

DTC is (1) revising fees for special requests for Security Position Reports ("SPRs") and for weekly, monthly, and quarterly dividend record date SPR subscriptions,<sup>4</sup> (2) revising existing fees for audit confirmations provided to issuers and their agents, and (3) implementing new fees for (a) audit confirmations for certificates of deposit ("CDs") provided to issuers and their agents and (b) access by transfer agents to DTC's imaging database.

### *Fees for Issuance of Security Position Reports*

Several types of SPRs are available through DTC. These include: (1) Weekly reports showing daily closing positions during that week; (2) monthly reports showing closing positions on the last business day of the month; (3) quarterly dividend record date reports showing closing positions on the dividend record date; and (4) special requests showing closing positions for the date specified.

DTC charges fees for SPRs. Currently, the fee charged to issuers or trustees for weekly, monthly, and quarterly dividend record date SPR subscriptions is \$1,950, \$450, and \$150, respectively. The fee charged to issuers or trustees for special requests is \$85 per special request. The purpose of this filing is to formally seek Commission approval of these fees. Because DTC incurs significantly higher costs for the production of special request SPRs relative to the costs of producing reports by subscription and because DTC has determined that a fee increase is necessary to more fully recover costs associated with such production, DTC is increasing the fee charged to issuers or trustees for special request SPRs from \$85 to \$120 per special request. The increase will become effective on a date in the first quarter of 2006 to be announced by DTC upon the Commission's approval of this proposed rule change.

### *Fees Charged to Issuers/Agents*

#### 1. Audit Confirmations

DTC receives frequent requests from issuers and/or their agents for confirmations of audit information relating to securities held by DTC. In connection with the processing of such requests for audit confirmations, DTC currently charges a fee of \$10.00 per request containing up to and including five CUSIPs and \$2.13 for each CUSIP beyond the fifth CUSIP. DTC also receives requests from issuers and/or their agents for confirmations relating to information concerning CDs deposited at DTC. A fee is not currently charged to process these CD audit confirmation requests. Providing issuers and/or their agents with audit confirmation information requires the allocation of significant resources to process the requests resulting in considerable cost to DTC. To more fully recover the costs associated with such audit confirmation processing, DTC is (1) increasing fees related to processing of audit confirmations to \$22 per request for requests of up to and including five CUSIPs and an additional \$5.00 per item for each CUSIP beyond the fifth CUSIP and (2) implementing fees for CD confirmation requests that are identical to those for audit confirmation requests relating to securities. The proposed audit confirmation fees will be effective upon approval by the Commission.

#### 2. Imaging

DTC frequently receives requests from transfer agents for access to DTC's security image database to obtain copies of certificates deposited at DTC. DTC incurs significant costs to maintain the database but currently does not charge transfer agents for access to the database. Therefore, in order to recover costs associated with this function, DTC is implementing a new subscription fee of \$350 per month for access to the DTC security image database. This fee will be effective upon approval by the Commission.<sup>5</sup>

## III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(D)

of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.<sup>6</sup> The Commission believes that DTC's rule change is consistent with this section because it will provide for the equitable allocation of reasonable dues, fees, and other charges among the users of DTC's services.

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2005-21) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Nancy M. Morris**,  
*Secretary*.

[FR Doc. E6-3900 Filed 3-16-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53463; File No. SR-DTC-2005-22]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise Fee Schedule

March 10, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 22, 2005, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on February 22, 2006, amended the proposed rule change 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 parties.

#### 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 revise DTC's fee schedule.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> Securities Exchange Act Release No. 53219 (February 3, 2006), 71 FR 6800.

<sup>4</sup> Weekly reports, monthly reports, and quarterly dividend record date reports are available by annual subscription only.

<sup>5</sup> DTC has separately filed a proposed rule change (File No. SR-DTC-2005-22) with the Commission to impose a subscription fee in the same amount on participants who subscribe for access to the DTC security image database. Securities Exchange Act Release No. 53463 (March 10, 2006).