

*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**

CBOE has filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act<sup>18</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>19</sup> Because the foregoing 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) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. As required under Rule 19b-4(f)(6)(iii), CBOE provided the Commission with written notice of its intention to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission.<sup>20</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 No. SR-CBOE-2006-31 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 No. SR-CBOE-2006-31. 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 will also be available for inspection and copying at the principal office of 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 No. SR-CBOE-2006-31 and should be submitted on or before June 13, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-7800 Filed 5-22-06; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-53810; File No. SR-DTC-2006-06]

**Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Relating to Changes to Its SMART/Track for Buy-Ins Service**

May 16, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on March 27, 2006, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4) thereunder<sup>3</sup> so that the proposal was effective upon filing with the Commission. 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 proposed rule change consists of changes to the functionality of DTC's SMART/Track for Buy-Ins service.

**II. Self-Regulatory Organization's Statement of the Purpose of, and CA 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 these statements.<sup>4</sup>

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>3</sup> 17 CFR 240.19b-4(f)(4).

<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> As set forth in the Commission's initial approval of the Pilot Program, if CBOE proposes to: (1) Extend the Pilot Program; (2) expand the number of options eligible for inclusion in the Pilot Program; or (3) seek permanent approval of the Pilot Program, it must submit a Pilot Program report to the Commission along with the filing of its proposal to extend, expand, or seek permanent approval of the Pilot Program. CBOE must file any such proposal and the Pilot Program report with the Commission at least 60 days prior to the expiration of the Pilot Program. The Pilot Program report must cover the entire time the Pilot Program was in effect and must include: (1) Data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of \$1 strike price intervals for the options CBOE selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of CBOE's, OPRA's, and vendors' automated systems; (5) any capacity problems or other problems that arose during the operation of the Pilot Program and how CBOE addressed them; (6) any complaints that CBOE received during the operation of the Pilot Program and how CBOE addressed them; and (7) any additional information that would help to assess the operation of the Pilot Program. See Pilot Approval Order, *supra* note 5.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

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

The proposed rule change relates to DTC's SMART/Track for Buy-Ins service as it pertains to the retransmittal of buy-ins in the National Securities Clearing Corporation ("NSCC")'s Continuous Net Settlement ("CNS") system.

Since 2003, DTC has made several rule filings relating to a service that was originally known as Universal Hub and that is now known as SMART/Track.<sup>5</sup> With its rule filing SR-DTC-2005-19,<sup>6</sup> DTC implemented the fourth phase of SMART/Track, "SMART/Track for Buy-Ins," that provides automated communication, warehousing and tracking of various types of buy-in related notices pertaining to buy-ins governed by the rules of either NSCC or other self-regulatory organizations.

The phase-in of SMART/Track for Buy-In functionality pertaining to NSCC CNS Buy-Ins was commenced on November 14, 2005, for CNS buy-in executions and completed on February 10, 2006, with the addition of CNS notices of intent to buy-in and CNS buy-in orders. The buy-in functionality of DTC's PEX platform relating to NSCC CNS buy-ins was discontinued on March 13, 2006.<sup>7</sup>

In 2005, NSCC submitted rule filing SR-NSCC-2005-15 which modified NSCC's Rules with regard to CNS buy-ins, creating a new buy-in retransmittal procedure that may be utilized by NSCC members receiving buy-in notices initiated outside of the CNS system (a "Buy-In Retransmittal Notice").<sup>8</sup>

Pursuant to that rule change, the NSCC member originating a Buy-In Retransmittal Notice will be provided with five additional fields that will be used for identification of the entity (or entities, as appropriate) that initiated the buy-in against the member. At least one such entity other than the

originating member must be identified or the Buy-In Retransmittal Notice will be rejected. NSCC members with short positions will be advised of their potential buy-in liability through DTC's SMART/Track for Buy-Ins. Concurrent with NSCC's implementation of the changes set forth in rule filing SR-NSCC-2005-15, DTC will make corresponding changes to SMART/Track for Buy-Ins to activate the CNS Retransmittal Buy-In functionality.<sup>9</sup>

As the NSCC CNS Retransmittal Buy-In functionality is an added feature to an existing DTC service that will conform the functionality of DTC's service to that which is required by NSCC's rules, DTC believes that the proposed rule change effects a change in an existing service of DTC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC and (ii) does not significantly affect the respective rights or obligations of DTC or those participants using the service. The proposed rule change is therefore consistent with Section 17A of the Act<sup>10</sup> and the rules and regulations thereunder applicable to DTC. Moreover, DTC has represented that the proposed rule change will be implemented consistently with the statutory obligation to safeguard securities and funds in its possession or control or for which it is responsible.

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

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b-4(f)(4)<sup>12</sup> thereunder because the proposed rule effects a change in an existing service of DTC that (i) does not

adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty 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-DTC-2006-06 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 20549-9303.

All submissions should refer to File Number SR-DTC-2006-06. 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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at <http://www.dtc.org>. All comments received will be posted

<sup>5</sup> Securities Exchange Act Release Nos. 50029 (July 15, 2004), 69 FR 43870 (July 22, 2004) [SR-DTC-2003-10] (Universal Hub, Stock Loan notification service); 50887 (Dec. 20, 2004), 69 FR 77802 (Dec. 28, 2004) [SR-DTC-2004-11] (Corporate Action Liability Notification Service); 52104 (July 21, 2005), 70 FR 43730 (July 28, 2004) [SR-DTC-2005-06] (SMART/Track for Agency Lending Disclosure); and 53032 (December 28, 2005), 71 FR 1457 (January 9, 2006) [SR-DTC-2005-19] (SMART/Track for Buy-Ins).

<sup>6</sup> Securities Exchange Act Release No. 53032 (December 28, 2005), 71 FR 1457 (January 9, 2006). See also, DTC Important Notice B#8796 (Nov. 23, 2005) available online at <http://www.dtc.org/>.

<sup>7</sup> Securities Exchange Act Release No. 53503 (March 16, 2006), 71 FR 15237 (March 27, 2006) [SR-DTC-2006-01].

<sup>8</sup> Securities Exchange Act Release No. 53528 (March 21, 2006), 71 FR 15506 (March 28, 2006) [SR-NSCC-2005-15].

<sup>9</sup> This functionality includes notices of intent to buy-in, buy-in orders, buy-in executions, and short member buy-in liability.

<sup>10</sup> 15 U.S.C. 78q-1.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(4).

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-DTC-2006-06 and should be submitted on or before June 13, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53806; File No. SR-ISE-2006-20]

### Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend Until June 5, 2007, a Pilot Program for Listing Options on Selected Stocks Trading Below \$20 at One-Point Intervals

May 15, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 18, 2006, the International Securities Exchange, Inc. ("ISE" 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 ISE. The ISE filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 ISE proposes to amend Supplementary Material .01 to ISE Rule 504, "Series of Options Contracts Open for Trading," to extend until June 5, 2007, its pilot program for listing options series on selected stocks trading below \$20 at one-point intervals ("Pilot Program"). The text of the proposed rule

change is available on the ISE's Web site (<http://www.iseoptions.com>), at the ISE's principal office, and at the Commission's Public Reference Room.

#### 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 ISE 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 ISE 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

On June 16, 2003, the Commission approved the ISE's Pilot Program, which allows the ISE to list series with \$1 strike price intervals on equity option classes that overlie up to five individual stocks, provided that the strike prices are \$20 or less, but not less than \$3, subject to the terms of the Pilot Program.<sup>5</sup> The Pilot Program, after being extended on three prior occasions,<sup>6</sup> is set to expire on June 5, 2006.<sup>7</sup> The Exchange may currently select up to five individual stocks to be included in the Pilot Program. The Exchange, however, is also permitted to list options on other individual stocks at \$1 strike price intervals if other options exchanges listed those series pursuant to their respective rules. The Exchange has selected the following five options classes to participate in the Pilot Program: AMR Corp. [AMR], Clapine Corp. [CPN], EMC Corp. [EMC], El Paso Corp. [EP], and Sun Microsystems Inc. [SUNW]. The ISE believes the Pilot

<sup>5</sup> See Securities Exchange Act Release No. 48033 (June 13, 2003), 68 FR 37036 (June 20, 2003) (order approving File No. SR-ISE-2003-17) ("Pilot Program Approval Order").

<sup>6</sup> See Securities Exchange Act Release Nos. 49827 (June 8, 2004), 69 FR 33966 (June 17, 2004) (notice of filing and immediate effectiveness of File No. SR-ISE-2004-21) (extending the \$1 Strike Pilot Program until August 5, 2004); 50060 (July 22, 2004), 69 FR 45864 (July 30, 2004) (notice of filing and immediate effectiveness of File No. SR-ISE-2004-26) (extending the \$1 Strike Pilot Program until June 5, 2005); and 51769 (May 31, 2005), 70 FR 33232 (June 07, 2005) (notice of filing and immediate effectiveness of File No. SR-ISE-2005-22) (extending the \$1 Strike Pilot Program until June 5, 2006) (collectively, "Pilot Extension Notices").

<sup>7</sup> See Securities Exchange Act Release No. 51769, *supra* note 6.

Program has been successful and well received by its members and the investing public. Thus, the ISE proposes to extend the Pilot Program until June 5, 2007.

In support of this proposed rule change, and as required by the Pilot Program Approval Order and the Pilot Extension Notices, the Exchange is submitting to the Commission a report ("Pilot Program Report"), attached as Exhibit 3 to the proposal, that details the Exchange's experience with the Pilot Program. Specifically, the Pilot Program Report contains data and written analysis regarding the five options classes included in the Pilot Program for the period between May 2, 2005, and February 28, 2006.

The Exchange believes there is sufficient investor interest and demand to extend the Pilot Program for another year. The Exchange continues to believe that the Pilot Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals.

###### 2. Statutory Basis

The ISE believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act.<sup>8</sup> Specifically, the ISE believes the proposed rule change is consistent with the requirements under section 6(b)(5) of the Act<sup>9</sup> that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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. The ISE believes that extension of the Pilot Program until June 5, 2007 will result in a continuing benefit to investors by allowing them to more closely tailor their investment decisions, and will allow the ISE to further study investor interest in \$1 strike price intervals.

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

The ISE believes that the proposed rule change does not impose any burden on competition that is not necessary or

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

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

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

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).