III. 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,[5] that the proposed rule change (File No. SR–DTC–2003–10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–16747 Filed 7–21–04; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50032; File No. SR–DTC–2004–07]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Fees for DTC's TaxInfo Service

July 16, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 8, 2004, 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. 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 establish fees, effective July 9, 2004, for access to DTC's TaxInfo service through its Participant Browser Service (''PBS'') platform.

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 these 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 establish fees, effective July 9, 2004, applicable to DTC's TaxInfo service when it is accessed through DTC's PBS platform. TaxInfo service is a tax information database of documents containing information on tax withholding rates and tax relief opportunities relating to international securities. The fee for TaxInfo service accessed through PBS will be $3.00 per document access. Each document provides in PDF format the applicable tax information on securities with respect to securities of a particular country.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the rules and regulations thereunder applicable to DTC because the proposed fees are consistent with DTC's policy to price its services commensurate with DTC's costs and to equitably allocate the cost among the users of the service.

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

DTC perceives no impact on competition by reason of the proposed rule change.

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

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

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)(ii) of the Act[4] and Rule 19b–4(f)(2)[5] thereunder because the proposed rule establishes or changes a due, fee, or other charge. At any time within sixty days of the filing of such 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.* Please include File Number SR–DTC–2004–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–DTC–2004–07. 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, 450 Fifth Street, NW., 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 *www.dtc.org.* 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–DTC–

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

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

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

2004–07 and should be submitted on or before August 12, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50015; File No. SR–ISE–2003–22]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 by the International Securities Exchange, Inc. Relating to Permanent Approval of a Pilot Program for Quotation Spreads

July 14, 2004.

I. Introduction

On September 24, 2003, the International Securities Exchange, Inc. (''ISE'' or ''Exchange''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change requesting permanent approval of a pilot program permitting the allowable market maker quotation spread for all options listed on the ISE to be $5, regardless of the price of the bid (''Pilot Program''). On May 20, 2004, the ISE filed Amendment No. 1 to the proposal.[3] Amendment No. 1 revised the proposal to expressly include in the Pilot Program all index options listed on the ISE as well as all equity options listed on the ISE.

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on May 27, 2004.[4] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

II. Description

On March 19, 2003, the Commission approved an ISE proposal to establish the Pilot Program on a six-month pilot basis until September 19, 2003.[5] The Pilot Program, which initially included options on up to 50 equity securities listed on the ISE, was extended several times and expanded to include all options listed on the ISE.[6]

The Pilot Program permits an ISE market maker to quote any equity or index option listed on the ISE with a difference of no more than $5 between the bid and the offer following the opening rotation.[7] Prior to the opening rotation, the maximum bid/ask differentials range from $.25 to $1.00, depending on the price of the option.[8]

As required by the Pilot Program Approval Order, the ISE submitted a report providing information concerning the quotations in the 50 equity options initially included in the Pilot Program. In addition, following the expansion of the Pilot Program,[9] the ISE submitted a second Pilot Program report providing quotation information concerning all of the options included in the ISE's expanded Pilot Program.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act[11] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

In the Pilot Program Approval Order,[12] the Commission noted that although the Commission believes generally that maximum quotation spread parameters in the options market could provide an important safeguard to ensure that market maker quotes in options are not unnecessarily wide, the Commission nevertheless believed that the ISE provided sufficiently strong incentives for market makers to disseminate competitive quotes without maximum quotation spread parameters. In this regard, the Pilot Program Approval Order noted that each ISE market maker uses an automatic quotation system to quote independently, customers and professional traders can enter limit orders on the ISE's book, and market makers are only allocated trades when they are quoting at the best price. Moreover, the larger the size of a market maker's quote, the larger portion of a trade it is allocated. The Commission believed that these attributes and rules of the ISE provided strong market incentives for market makers to maintain narrow and competitive quotation spreads.[13]

The Commission believes that the two Pilot Program reports submitted by the ISE indicate that market maker quotation spreads for options included in the Pilot Program have not widened significantly during the operation of the Pilot Program. Accordingly, the Commission believes that permanent approval of the Pilot Program is consistent with the Act.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the

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

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael J. Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated May 19, 2004, and accompanying Form 19b–4 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 49754 (May 21, 2004), 69 FR 30352.

[5] *See* Securities Exchange Act Release No. 47532 (March 19, 2003), 68 FR 55685 (March 26, 2003) (''Pilot Program Approval Order'').

[6] *See* Securities Exchange Act Release Nos. 48514 (September 22, 2003), 68 FR 55685 (September 26, 2003) (notice of filing and immediate effectiveness of File No. SR–ISE–2003–21) (extending the Pilot Program through January 31, 2004); 49149 (January 29, 2004), 69 FR 05627 (notice of filing and immediate effectiveness of File No. SR–ISE–2004–02) (extending the Pilot Program through March 31, 2004); 49509 (March 31, 2004), 69 FR 18411 (April 7, 2004) (notice of filing and immediate effectiveness of File No. SR–ISE–2004–10) (extending the Pilot Program through June 29, 2004, and expanding the Pilot Program to include all options listed on the ISE) (''Pilot Expansion Notice''); and 49918 (June 25, 2004), 69 FR 40427 (July 2, 2004) (notice of filing and immediate effectiveness of File No. SR–ISE–2004–23) (extending the Pilot Program through July 29, 2004).

[7] *See* ISE Rule 803(b)(4).

[8] Specifically, prior to the opening rotation, ISE Rule 803(b)(4) requires options market makers to bid and offer so as to create differences of no more than $.25 between the bid and offer for each options contract for which the bid is less than $2; no more than $.40 where the bid is at least $2 but does not exceed $5; no more than $.50 where the bid is more than $5 but does not exceed $10; no more than $.80 where the bid is more than $10 but does not exceed $20; and no more than $1 where the bid is $20 or greater. The bid/offer differentials do not apply to in-the-money options series when the spread in the underlying securities market is wider than the differentials set forth above. For such series, ISE Rule 803(b)(4) permits the bid/ask differential to be as wide as the quotation on the primary market of the underlying security.

[9] *See* Pilot Expansion Notice, *supra* note 6.

[10] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* note 5, *supra*.

[13] *See* Pilot Program Approval Order, *supra* note 5.

[14] 15 U.S.C. 78s(b)(2).