

market makers are designated as Specialists on the Exchange for all purposes under the Act (See Rule 958, Commentary .01), and are entitled to good faith market maker margin with respect to transactions on the Floor in these assigned securities. The Exchange anticipates that application of Rule 958 requirements to supplemental Exchange market makers will encourage additional competing market maker activity in currency warrants, thereby enhancing liquidity in such securities, and eliminate an anomalous regulatory disparity between currency warrant and stock index warrant trading.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange believes the proposed rule change will impose no burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 days of the publication of this notice in the Federal Register or within such other 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 self-regulatory organization consents, the Commission will:

(A) By order approve the 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.

inappropriate to apply the stabilization requirements applicable to REMMs to market maker transactions in currency warrants.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-95-38 and should be submitted by December 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36536; File No. SR-NASD-95-48]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Non-Member Subscriber Deposits for Nasdaq Level 2/3 Service and Equipment

November 30, 1995.

I. Introduction

On October 11, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to 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 to revise the non-member subscriber deposit requirements contained in Part VIII, Paragraph G.1. and 2. of Schedule D to the NASD By-Laws.³ The proposed rule

⁴ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1991).

³ The Commission also received a separate, yet identical proposed rule change relating to member subscriber deposits for Nasdaq Level 2/3 service and equipment which became effective upon receipt by the Commission pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule

change reflects increased charges for the provision of telecommunications services and equipment and broadens the language to encompass the various fees associated with these services and equipment.

Notice of the proposed rule change appeared in the Federal Register on October 26, 1995.⁴ No comment letters were received on the proposal. The Commission is approving the proposed rule change.

II. Description of Proposal

The proposed rule change reflects increased charges for the provision of telecommunications services underlying Nasdaq Workstation II service, and clarifies the various component functions encompassed within the circuit installation fee so that the true nature of the charge is made clear to new subscribers. These requirements would pertain only to new subscribers or existing subscribers that have defaulted on the payment of their charges.

This proposed rule change applies to subscribers who are not NASD members. A companion filing, which applies the proposed rule change to member subscribers, was filed separately for immediate effectiveness.⁵

The NASD represents that the subscriber deposit requirement helps hedge against uncollected balances owed by firms for Level 2/3 or Nasdaq Workstation equipment. The subscriber deposit in part represents actual expenses incurred by The Nasdaq Stock Market, Inc. as obligations to telecommunications providers.

III. Discussion

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder. Specifically, the Commission believes that approval of the proposed rule change is consistent with sections 15A(b)(5),⁶

19b-4 thereunder because it established or changed a due, fee or other charge imposed by the NASD on its members. Securities Exchange Act Release No. 36396 (October 20, 1995), 60 FR 54896.

⁴ Securities Exchange Act Release No. 36397 (October 20, 1995), 60 FR 54897.

⁵ See *supra* note 3.

⁶ Section 15A(b)(5) requires the Commission to determine that a registered national securities association's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

15A(b)(6),⁷ and 15A(b)(9)⁸ of the Act. Pursuant to sections 15A (b)(5) and (b)(6), the proposed rule change equitably allocates the fees between NASD members and non-NASD members. Because both members and non-members are subject to the same fee schedules and arrangements, there is no unfair discrimination between member and non-member subscribers. Pursuant to section 15A(b)(9), the proposed rule change does not impose any unnecessary or inappropriate burden on competition, but reflects an attempt to update a rule that contains provisions that are no longer applicable because they do not adequately represent current market practices or pricing. In light of the technological advancements in the telecommunications area, increased costs are commensurate with providing current and potential subscribers with access to the various communications services and equipment. However, the schedule of NASD charges for services and equipment is based on a per unit cost; therefore, members and non-members are subject to the same charges. Thus, the revision in subscriber deposit requirements does not impose any unnecessary or inappropriate burdens on competition.

IV. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with sections 15A(b)(5), 15A(b)(6), and 15A(b)(9).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-NASD-95-48) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

⁷ Section 15A(b)(6) requires the Commission to determine that a registered national securities association's rules are designed 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 are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, to impose any schedule or fix rates of commissions, allowances, discounts, or other fees to be charged by its members, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the NASD.

⁸ Section 15A(b)(9) requires the Commission to determine that a registered national securities association's rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

⁹ 15 U.S.C. 78s(b)(2) (1988).

¹⁰ 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34-36534; File No. SR-CBOE-95-65]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Joint Account Participant Trading in Equity Options

November 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 20, 1995, the Chicago Board Options Exchange, Inc. ("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 the self-regulatory organization. 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 Exchange proposes to revise its policy regarding joint account participation in equity options. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

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.

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

The purpose of this rule change is to revise that provision of the Exchange's policy governing joint account participant trading in equity options that currently prohibits the simultaneous representation in a trading crowd by more than one member of a

joint account.¹ Under the proposed regulatory circular, a joint account may be simultaneously represented in a trading crowd but only by participants trading in-person. All other provisions of the current regulatory circular would remain unchanged, including a prohibition against orders being entered in the crowd via a floor broker when a joint account participant is trading in the crowd in-person. This change in policy is also reflected in a deletion of one sentence and the addition of another from paragraph (a)(ii) of Rule 8.16, RAES Eligibility in Equity Options.

There are two reasons why the Exchange has determined to propose this change, which has been recommended by the Exchange's Equity Floor Procedure Committee. First, the change will make the policy governing joint account trading in equity options more consistent with the current policy governing index option trading, where multiple representation of orders for the same joint account is permitted by participants in the joint account trading in-person at the trading post, or by floor brokers representing the orders at the post.² The policy proposed for equity options is more restrictive, in that it would only permit joint representation by participants trading in-person, and would not permit multiple representation of orders for the same joint account if one or more of the orders is represented by a floor broker. The policy for index options reflects that, as a practical matter, floor broker representation is often required in index option trading crowds, where special trading practices and procedures have been adopted to deal with the special needs of these very large crowds. Since a trader from another crowd may be unfamiliar with these practices, he may need to use the services of a floor broker who is regularly present at the index crowd and who understands its trading practices. Smaller equity option trading posts do not present the same practical need for the services of floor brokers, which is why the proposed policy permitting joint account representation at equity option posts is limited to in-person representation of orders by market-makers.

¹ This policy is set forth in Regulatory Circular RG 93-50, which is a reissuance of RG 91-68, submitted for immediate effectiveness as File No. SR-CBOE-91-48, noticed in Securities Exchange Act Release No. 30334 (February 4, 1992), 57 FR 4900 (February 10, 1992).

² See Regulatory Circular RG 95-64, which is a reissuance of Regulatory Circular RG 91-57, approved in Securities Exchange Act Release No. 31174 (September 10, 1992), 57 FR 42789 (September 16, 1992).