the Act provides, *inter alia*, that the Commission approve an amendment to an effective National Market System plan if it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a National Market System, or otherwise in furtherance of the purposes of the Act. In making such a determination, the Commission must examine Section 11A of the Act and rules promulgated thereunder. Rule 11Aa3–2(b) lists the requirements for filing or amending a national market system plan. The Commission has determined that the detailed description of the amendments, the rationale for the amendments, and plans for operation meet the requirements of Rule 11Aa3–2(b).

Furthermore, the amendments will remove impediments to and perfect the mechanisms of a National Market System by affording greater flexibility that changing technology is likely to require. Participants will retain greater flexibility in determining which vendors and subscribers need to enter into contracts to receive and use information and which terms and conditions apply.[7] The Commission expects that vendors and users of information will benefit from a more flexible agreement with the Participants, and in some instances will be relieved of additional contractual documents that today's practice requires.

The public's interest in availability of information will be met by the broadening of the scope of concurrent use information to include virtually all Participant securities (including bonds) and index information. Amending the language and format of the two plans to make them more closely comport with each other will result in drafting economies, and a more easily readable document.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed amendments to the CTA and CQ Plans are consistent with the Act, and the Rules thereunder.

It is therefore ordered, pursuant to Section 11A of the Act, that the amendments to the CTA and CQ Plans be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12237 Filed 5–15–96; 8:45 am]

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[7] The Commission notes that Section 11A of the Act establishes special fairness conditions for the dissemination of market information by exclusive securities information processors (''SIPs'') such as CTA and CQ. Limitations on access to services of exclusive SIPs must be consistent with the Act, must not discriminate unfairly, and must not place an inappropriate burden on competition. Section 11A requires any SIP that directly or indirectly prohibits or limits access to services offered by the SIP to immediately file notice thereof with the Commission. Such prohibition or limitation on access is subject to review by the Commission.

[File No. 500–1]

Comparator Systems Corp; Order of Suspension of Trading

It appears to the Securities and Exchange Commission that questions that have been raised about the adequacy and accuracy of publicly-disseminated information about Comparator Systems Corp. concerning, among other things, the assets recorded on its financial statements.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EDT, May 14, 1996 through 11:59 p.m. EDT, on May 28, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12468 Filed 5–14–96; 2:46 pm]

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[Release No. 34–37187; File No. SR–CBOE–96–25]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Members' Use of Blanket or Standing Assurances as to Stock Availability To Satisfy Their Affirmative Determination Requirements Under the Prompt Receipt and Delivery of Securities Interpretation When Effecting Short Sales

May 9, 1996.

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 April 17, 1996, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. This Order approves the proposed rule change on an accelerated basis and also solicits comments from interested persons.

[8] 17 CFR 200.30–3(a)(27).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make certain changes to its rules relating to the requirement to make prior arrangements to borrow stock or to obtain other assurances that delivery can be made on settlement date before a member or person associated with a member may sell short. The text of the proposed rule change is available at the Office of the Secretary of the 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, the CBOE included statements concerning the purpose of the 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. CBOE has prepared summaries, set forth in Section (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 proposal is to amend an interpretation regarding the need to make prior arrangements to borrow stock, warrants, or other securities that trade subject to Chapter 30 of the Exchange's rules, or to otherwise ensure availability of the subject securities before engaging in short sales. Specifically, the Exchange proposes to amend the interpretation to provide that under certain circumstances members may rely on ''blanket'' or standing assurances (*e.g.*, daily fax sheets) as to stock availability to satisfy their affirmative determination requirements under the Interpretation.

On November 27, 1995, the Commission published a notice of filing an immediate effectiveness of a proposed rule change by the Exchange which adopted Interpretation .04 to Rule 30.20 (''Interpretation''), ''Long''

and ''Short'' Sales.[1] The Interpretation is similar to rules of other securities exchanges and requires that member organizations who effect short sales for their own account or for the accounts of customers make an affirmative determination that delivery of the subject securities can be made on settlement date. The purpose for this interpretation is to ensure that borrowings and short sales do not outpace the supply of deliverable stock, thus, leading to potential systemic problems.

The Interpretation also describes the type of ''affirmative determinations'' that must be obtained by the member or person associated with the member to ensure that the securities will be available. The member or person associated with the member is obligated to keep a written record of each ''affirmative determination.'' If a customer assures delivery, the written affirmative determination must record the present location of the securities in question, whether they are in good deliverable form and the customer's ability to deliver them to the member within three business days. If the member or person associated with a member locates the stock, the affirmative determination must record the identity of the individual and firm contacted who offered assurance that the shares would be delivered or that were available for borrowing by settlement date and the number of shares needed to cover the short sale.

The Interpretation also provides that the manner by which a member or person associated with a member annotates compliance with this ''affirmative determination'' requirements (*e.g.*, marking the order tickets, recording inquiries in a log) is left for each individual firm to decide. In addition, the Interpretation required that an affirmative determination and annotation of that affirmative determination be made for each and every transaction since a ''blanket'' or standing assurance that securities are available for borrowing is not acceptable to satisfy the affirmative determination requirement (''standing assurance provision'').

On March 29, 1996, the Exchange filed a proposed rule with the Commission to delay the effectiveness of the standing assurance provision until May 10, 1996.[2] CBOE delayed effectiveness of this provision because its rule was based on a similar rule of the NASD, which had also delayed effectiveness of its standing assurance provision. The NASD re-examined the standing assurance provision and subsequently replaced it with a provision that allows members to rely on blanket assurances under some circumstances.[3]

The Exchange has decided, for the sake of regulatory compatibility, to adopt the same provision. Specifically, under the proposal, a CBOE member could rely on a ''blanket'' or standing assurance that securities will be available for borrowing on settlement date to satisfy its affirmative determination requirement under the Interpretation provided that: (1) the information used to generate the ''blanket'' or standing assurance is not more than 24-hours old; and (2) the member delivers the security on settlement date. The proposal also provides that, should a member relying on a blanket or standing assurance fail to deliver the security on settlement date, the Exchange will deem such conduct inconsistent with the terms of the Interpretation, absent mitigating circumstances adequately documented by the member.

The Exchange believes the new proposal strikes the appropriate balance between the need to prevent potentially abusive short selling activity and the desire to avoid the imposition of unnecessarily burdensome regulatory requirements. Under the new proposal, members would have the flexibility to exercise their judgment as to whether it would or would not be appropriate to rely on a fax sheet. On the other hand, the proposal allows the Exchange to consider the firm to have violated the rule if the firm uses a fax sheet but then fails to deliver the stock. In order to permit the rule to be reasonably employed by firms who with good intention are unable to deliver, the rule does permit the Exchange to consider mitigating circumstances in failure to deliver situations.

Because this rule proposal helps prevent a shortage of deliverable stock and fails to deliver without imposing any unnecessarily burdensome regulatory requirements, and conforms the CBOE rule to the rules of the NASD and the New York Stock Exchange, the Exchange believes the proposal is consistent with Section 6(b) of the act in general and Section 6(b)(5) in particular by providing rules that facilitate transactions in securities, remove impediments to a free and open market and protect investors and the public interest.

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

The Exchange believes that the proposed rule change will not result in any burden on competition that is 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.

III. Findings and Conclusions

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, and, in particular, the requirements of Section 6(b)(5).[4] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

As in the NASD Approval Order, the Commission has determined to allow CBOE to permit firms to utilize standing assurances in satisfying their affirmative determination requirements, thereby providing members with the flexibility to determine whether it is appropriate to rely on a standing assurance in a given situation. The proposal, however, also puts members on notice that reliance on standing assurances may be deemed conduct inconsistent with the Interpretation under certain circumstances. The Commission believes that this flexible approach will act not only to ease compliance burdens where appropriate, but also to protect against conduct inconsistent with the purposes of the Interpretation.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register because the CBOE's proposal conforms the Interpretation to the NYSE's interpretation of its own affirmative determination rule[5] and is also identical to the recently approved NASD proposal. The Commission believes that consistent application of CBOE, NASD, and NYSE rules will

[1] Securities Exchange Act Release No. 36513 (November 27, 1996).

[2] *See* Securities Exchange Act Release No. 37052 (March 29, 1996).

[3] *See* Securities Exchange Act Release No. 36859 (February 20, 1996) (''NASD Approval Order'').

[4] 15 U.S.C. § 78f(b)(5) (1982).

[5] *See* NYSE Rule 440C; NYSE Information Memo 91–41 (October 18, 1991).

result in more efficient compliance with such rules. Accordingly, the proposal does not raise any new or unique regulatory issues. For these reasons, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules 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, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 6, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CBOE–96–25) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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[6] 15 U.S.C. § 78s(b)(2) (1988).

[7] 17 CFR § 200.30–3(a)(12).

[Release No. 34–37190; File No. SR–NASD–96–11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to the Primary Maker Standards

May 9, 1996.

On March 27, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The rule change amends the Primary Market Maker (''PMM'') Standards rule be deleting a provision of the rule that allows a market maker to qualify as a PMM in a security by registering in that security and refraining from quoting that security for five days.[3]

Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a Commission release (Securities Exchange Act Release No. 37062, April 2, 1996) and by publication in the Federal Register (61 FR 15885, April 9, 1996). No comment letters were received. This order approves the proposed rule change.

On June 29, 1994, the Commission approved on a pilot basis the NASD's short sale rule governing short sales in Nasdaq National Market (''NNM'') securities (''Short Sale Rule'').[4]

The Short Sale Rule prohibits member firms from effecting short sales[5] at or below the current inside bid as disseminated by the Nasdaq system whenever that bid is lower than the previous inside bid.[6]

The short sale rule provides an exemption to so-called ''qualified'' Nasdaq market makers (''market maker exemption'') to ensure that the rule does not constrain market making activities that provide liquidity and continuity to the market.[7] The market maker exemption is limited to transactions made in connection with bona fide market making activity. A market maker that does not satisfy the requirements for a qualified market maker can remain a market maker but cannot rely upon the market maker exemption when effecting short sales of a NNM security.

A ''qualified'' Nasdaq market maker is currently defined to be a market maker that satisfies the criteria for a PMM found in Section 49 of the NASD Rules of Fair Practice.[8] A market maker may qualify as a PMM if it satisfies at least two of the following four criteria: (1) the market maker must be at the best bid or best offer as shown on the Nasdaq system no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading; or (4) the market maker executes 1½ times its ''proportionate'' volume in the stock.[9] A market maker also may qualify as a PMM in a security by registering in the security and refraining from quoting the security for five days (''five-day quotation delay rule''). A ''P'' indicator is displayed next to the market maker identification of a market maker that qualifies as a PMM.

Market makers are reviewed each month to determine whether they have satisfied the PMM performance standards. If a PMM has not satisfied the threshold standards after a particular review period, its PMM designation is removed commencing on the next business day following notice of failure to comply with the standards. A market maker that loses its PMM designation may requalify for PMM designation by satisfying the threshold standards for the next review period.

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *NASD Manual*, Rules of Fair Practice, Art. III, Sec. 49 (CCH) ¶ 2200I.

[4] *See* Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) (approving, *inter alia*, Article III, Section 48 to the NASD Rules of Fair Practice). The pilot has been approved to continue through August 3, 1996. *See* Securities Exchange Act Release No. 36532 (Nov. 30, 1995), 60 FR 62519 (Dec. 6, 1995).

[5] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. To determine whether a sale is a short sale members must adhere to the definition of a ''short sale'' contained in SEC Rule 3b–3, which rule is incorporated into Nasdaq's short sale rule by Article III, Section 48(l)(1) of the NASD Rules of Fair Practice.

[6] Nasdaq calculates the inside bid and the best bid from all market makers in the security (including bids on behalf of exchanges trading Nasdaq securities on an unlisted trading privileges basis), and disseminates symbols to denote whether the current inside bid is an ''up bid'' or a ''down bid.'' Specifically, an ''up bid'' is denoted by a green ''up'' arrow symbol and a ''down bid'' is denoted by a red ''down'' arrow. Accordingly, absent an exemption from the rule, a member can not effect a short sale at or below the inside bid in a security in its proprietary account or an account of a customer if there is a red arrow next to the security's symbol on the screen. In order to effect a ''legal'' short sale on a down bid, the short sale must be executed at a price at least a 1/16th of a point above the current inside bid. Conversely, if the security's symbol has a green ''up'' arrow next to it, members can effect short sales in the security without any restrictions. The rule is in effect during normal domestic market hours (9:30 a.m. to 4:00 p.m.; Eastern Time).

[7] Article III, Section 48(c)(1).

[8] Before the PMM standards went into effect, a ''qualified market maker'' was defined to be a market maker that had entered quotations in the relevant security on an uninterrupted basis for the preceding 20 business days, the so-called ''20-day test.''

[9] For example, if there are 10 market makers in a stock, each dealer's proportionate share volume would be 10 percent; therefore, 1½ times proportionate share volume would mean 15 percent of overall volume.