

Act<sup>8</sup> and subparagraph (f)(1) of Rule 19b-4 thereunder.<sup>9</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. Persons making written submissions should file six copies therefore with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statement 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to the File No. SR-CBOE-00-36 and should be submitted by September 29, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-23030 Filed 9-7-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43238; File No. SR-CBOE-00-07]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 by the Chicago Board Options Exchange, Incorporated To Facilitate the Conversion to Pricing in Decimals

August 31, 2000.

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 March 6, 2000, the Chicago Board Options Exchange, Incorporated ("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 CBOE. The Exchange filed amendments to the proposed rule change on August 7, 2000 and August 16, 2000, respectively.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The CBOE proposes to amend its rules to conform to the securities industry's Decimals Implementation Plan submitted to the Commission on July 24, 2000, and to facilitate the conversion to pricing in decimals. The text of the proposed rule change is available at the Commission and the CBOE.

#### 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, 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.

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

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

<sup>3</sup> See Letter dated August 7, 2000, from Angelo Evangelou, Attorney, Legal Division, CBOE, to Alton Harvey, Office Head, Division of Market Regulation ("Division"), Commission ("Amendment No. 1"). Amendment No. 1 converts the filing to a non-controversial filing under Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder and requests the Commission to waive the 5 day pre-filing notice requirement and the 30-day operative period. Amendment No. 1 also updates the background material set forth in Item II.A of this notice and makes certain changes to the proposed rule text. Amendment No. 1 replaces and supersedes the original filing in its entirety. See also Letter dated August 15, 2000, from Angelo Evangelou, Attorney, Legal Division, CBOE, to Alton Harvey, Office Head, Division, Commission ("Amendment No. 2"). Amendment No. 2 amends CBOE Rule 30.72 to conform the rule to a recent proposed amendment to the Intermarket Trading System Plan ("ITS Plan") relating to decimal pricing.

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

##### 1. Purpose

*Background.* On January 28, 2000, the Commission issued an order directing the national securities exchanges and the National Association of Securities Dealers, Inc. ("Participants"), pursuant to Section 11A(a)(3)(B) of the Act,<sup>4</sup> to jointly submit a decimalization implementation plan.<sup>5</sup> That order prescribed a timetable for the Participants to begin pricing some equity securities, and options on those equity securities, in decimals by July 3, 2000, and all equities and options in decimals by January 3, 2001. However, on March 6, 2000, the National Association of Securities Dealers, Inc. announced that the Nasdaq Stock Market, Inc. ("Nasdaq") would not have sufficient capacity to meet the target dates for implementation. Subsequently, on April 13, 2000, the Commission issued an order staying the original deadlines for decimalization.<sup>6</sup>

On June 8, 2000, the Commission issued another order ("Order")<sup>7</sup> requiring the Participants to act jointly in planning, discussing, developing, and submitting to the Commission a plan that will begin phasing in the implementation of decimal pricing in equity securities and options on or before September 5, 2000 ("Plan"). The Commission directed the Participants to submit the Plan to the Commission by July 24, 2000 and further directed each Participant to file the rule changes necessary to implement the phase-in plan.

As part of the Order, the Commission requires the full implementation of decimal pricing in all exchange-traded and Nasdaq equity securities and options to be completed no later than April 9, 2001, and that the Participants submit within two months after full implementation (individually or jointly) a study to the Commission regarding the impact of decimal pricing on systems capacity, liquidity, and trading behavior, including an analysis of whether there should be a uniform minimum increment for a security. Further, within thirty days after submitting the study, and absent Commission action, the Participants individually must submit proposed rule

<sup>4</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>5</sup> See Securities Exchange Act Release No. 42360 (Jan. 28, 2000), 65 FR 5003 (Feb. 2, 2000).

<sup>6</sup> See Securities Exchange Act Release No. 42685 (April 13, 2000), 65 FR 21046 (April 19, 2000).

<sup>7</sup> See Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>9</sup> 17 CFR 240.19b-4(f)(1).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

changes to establish their individual choice of minimum increments by which equities or options are quoted on their respective markets. The Order will be effective until the Commission has acted on those proposed rule changes filed by the individual Participants establishing the minimum increments or until otherwise ordered by the Commission.

The Plan, which was submitted on July 24, 2000, recommends a phased-in implementation for the conversion to decimal pricing that reduces the risk to the investing public, issuers, Participants, utilities, and member firms. This implementation period will begin on August 28, 2000 and will end with full implementation of decimal pricing for all equities and options on or before April 9, 2001. The Plan also requires a Minimum Price Variation ("MPV") to be applied through the last day that the Plan is in effect. The Plan's MPV schedule for quoting is as follows: for equity issues—\$.01 MPV; for option issues quoted under \$3 a contract—\$.05 MPV; and, for option issues quoted at \$3 a contract and greater—\$.10 MPV. A penny-pilot for options may be established during the implementation period pursuant to the Plan.<sup>7</sup> The Plan will remain in effect until the Commission approves rules for each Participant that designate the minimum increment by which equities and options are quoted, or until any other date identified by the Commission.

The Plan further provides that decimal pricing be implemented pursuant to several phases. The initial phase, to begin on Monday, August 28, 2000, provides that a minimum of 10 to 15 exchange-listed equity issues, and options on those equities, will quote in decimals (per the recommended quote MPV scheduled noted above) and that the Participants, with the cooperation of other market participants, will evaluate the industry's transition to decimals. Subsequently, on September 25, 2000, approximately 50 to 100 exchange-listed equity issues, and options on those

equities, will begin quoting in decimals provided the initial phase of the transition was successful. The Participants will continually evaluate the transition to decimal pricing and its impacts on the industry, especially as they relate to capacity, liquidity and trading patterns.

The next phase will commence after October 2000. If the Participants determine, after consultation with certain market participants and the Commission, that the Participants are technically prepared for full decimals implementation and that such implementation would not cause adverse impacts to the investing public, the Participants may elect to fully convert all exchange-listed issues and/or all option issues (both exchange-listed and Nasdaq-listed) to decimal quoting (per the recommended quote MPV schedule noted above). The Participants may also elect to implement a penny pilot in selected option issues during this phase pursuant to the Plan. The Plan provides that any decision to fully convert exchange-listed issues and/or all options or to implement a penny pilot on options must be made during the period between November 2000 and April 2001, and a notice would be widely disseminated by the Participants and the Securities Industry Association to the industry and the investing public at least 30 calendar days before such implementation.

The Plan further requires an initial phase of limited Nasdaq equity issues, and options on those issues if not already quoting in decimals, to begin quoting in decimals on or before March 12, 2001. Lastly, the Plan provides that if, after consultation with the interested market participants and the Commission, the Participants believe that the Participants and certain other market participants are technically prepared for full implementation and that it would not cause adverse impacts to the investing public, the Participants would recommend that full implementation of decimal quoting for equities and options begin on or before April 9, 2001 and continue through the last day that the Plan is in effect. The Participants, with the cooperation of an industry evaluation team, would evaluate the industry's transition to full decimal pricing in all issues and joint and/or independent studies would also evaluate the impact of decimal pricing.

*Proposed Changes.* The purpose of the proposed rule change filing is to comply with the Order and facilitate the industry's conversion to decimal pricing. The proposed rule change is designed to allow for the

implementation of the Plan and thereby facilitate the eventual conversion to decimal pricing by (1) eliminating virtually all references to fractions throughout the CBOE's option and stock rules; (2) allowing for certain option classes to begin quoting in decimals in accordance with the Plan; and (3) permitting certain option classes to continue to be quoted in fractions during the phase-in period, if necessary.

A large number of the references to fractions in the Exchange's rules are used in the context of examples to illustrate the application of various Exchange rules. In such cases, the Exchange has replaced the fractions with their decimal equivalents. In other instances, references are made to fractions to describe minimum tick increments (e.g. CBOE Rule 6.74(a)(ii)(A)). In those cases, the terms "fraction" or "fractional" are replaced with language that would allow for pricing in decimals or fractions.

Fractions are also used in the CBOE rules to describe bid/offer parameters. For example, Rule 8.7. (Obligations of Market Makers) requires CBOE market makers to provide markets with bid/ask differentials no greater than certain fractional increments based on the bid price (e.g. when the bid is at least \$2 but no more than \$5, the spread can be no greater than  $\frac{1}{2}$  of \$1). Again, in these instances the Exchange is proposing to convert the fractions to their decimal equivalents. However, in instances where the decimal equivalent of a fraction equals a number that extends more than two places to the right of the decimal point (e.g.  $\frac{3}{8} = .375$ ), the Exchange has rounded the decimal equivalent to a number that is only two places to the right of the decimal point (e.g.  $\frac{3}{8}$  is rounded to .40) in a manner that would also allow for pricing in \$.01, \$.05 or \$.10 minimum increments, as applicable in accordance with the Plan. This was done to ensure that the Exchange could fully comply with the requirements of the Plan and to reduce any potential system burdens.

The Exchange believes that the proposed rule change would allow for quoting in decimals or fractions until decimal pricing is completely implemented. To that end, there are certain rules where references to fractions will remain unchanged, at least until the completion of decimal pricing implementation. For example, CBOE Rule 24.8 (Meaning of Premium Bids and Offers) provides that with respect to index options, bids and offers shall be expressed in terms of "dollars and fractions or dollars and decimals per unit of the index." To the extent that some or all CBOE index options may

<sup>7</sup> The Plan contemplates that the options exchanges may wish to consider a pilot program for one-cent minimum price variations for quoting in a limited number of options ("Penny Pilot") at some point in the implementation process. The Commission expects that, before implementing a Penny Pilot, the options exchanges will carefully coordinate on such issues as the selection and number of options to be included in the pilot to ensure the continued orderly operation of the markets and clearing organizations. In particular, the Commission expects that the options exchanges will consult with the Commission regarding the impact on market-wide capacity. Before implementing a Penny Pilot, each options exchange should also submit appropriate rule filings to the Commission under Section 19(b) of the Exchange Act.

continue to be priced in fractions beyond September 2000, the reference to bids and offers being expressed in terms of dollars and fractions will remain in place.

The Exchange is also proposing to amend CBOE Rule 6.42 (Minimum Increments for Bids and Offers). Currently, this rule provides that, among other things, bids and offers for all option series trading at or above \$3 be expressed in eighths of \$1, and that bids and offers for all option series trading below \$3 be expressed in sixteenths of \$1, unless a different increment is approved by the appropriate Floor Procedure Committee for an option contract of a particular series. Furthermore, Interpretation and Policy .03 states that the Exchange may determine that bids or offers in all series of options on the Dow Jones Industrial Average shall be expressed in sixteenths of \$1.

The CBOE proposes to amend Rule 6.42 to explicitly state and give effect to the minimum price increments mandated by the Plan. Thus, to the extent an option class is pricing in decimals, the MPVs would be as follows: for options quoting under \$3 a contract, the MPV would be \$.05; and for options quoting under \$3 a contract, the MPV would be \$.05; and for options quoted at \$3 a contract or greater, the MPV would be \$.10. Proposed Interpretation and Policy .04 under Rule 6.42 provides that the Exchange would price options in decimals or fractions in accordance with the Plan until the Plan is no longer effective. Further, the Exchange would not exercise its ability to institute smaller increments than those stated in proposed Rule 6.42 (either via the Board of Directors or the appropriate Floor Procedure Committee for a particular options contract) throughout the duration of the Plan unless prescribed by the Plan.<sup>8</sup>

Lastly, the Exchange proposes to amend its rules governing trading in stocks, warrants and other instruments that may be traded on the Exchange and to which Chapter 30 of the CBOE rules applies to eliminate references to fractions. As part of these proposed changes, and in accordance with the Plan, the Exchange would require bids/offers in stocks and other non-option securities governed by CBOE Chapter 30 to have a \$0.01 MPV. As with options, the Exchange would not exercise its ability to institute smaller increments than what is stated in proposed Rule 30.33 (via the Board of Directors)

<sup>8</sup> Rule 6.42 currently grants the Exchange's Board of Directors authority to establish minimum price increments for options traded on the Exchange.

throughout the duration of the Plan unless prescribed by the Plan.<sup>9</sup> Also, the proposed rule changes provides that the minimum increment for Index Portfolio Receipts ("IPRs") and Index Portfolio Shares ("IPs") will be \$.01. Moreover, the Exchange is proposing to amend Rule 30.72 (Pre-Opening Application Rule) to conform the rule to recent proposed changes to the ITS Plan relating to decimal pricing.<sup>10</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>12</sup> in particular, in that it would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

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

The CBOE 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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time

<sup>9</sup> The Plan provides for MPVs for equities and options of no less than one cent. The Order requires the Participants to submit joint or individual studies two months after Full Implementation (as defined in the Plan) regarding the impact of decimal pricing on systems capacity, liquidity, and trading behavior, including an analysis of whether there should be a uniform minimum quoting increment. If a Participant wishes to move to quoting in an increment of less than one cent, the Participant should include in its study a full analysis of the potential impact of such trading on the Participant's market and the markets as a whole. Within thirty days after submitting the study, and absent Commission action, the Participants individually must submit for notice, comment, and Commission action, proposed rule changes under Section 19(b) of the Exchange Act to establish their individual choice of minimum increments by which equities or options are quoted on their respective markets.

<sup>10</sup> See Amendment No. 2, *supra* n.3.

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

as the Commission may designate,<sup>13</sup> it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6)<sup>15</sup> thereunder. 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.

The CBOE has requested that the Commission accelerate the operative date. The Commission believes that it is consistent with the protection of investors and the public interest and therefore finds good cause to designate the proposal to become immediately operative upon filing. Acceleration of the operative date will ensure that the CBOE is able to operate in accordance with the terms and conditions of the Plan. For these reasons, the Commission finds good cause to designate that the proposal become operative immediately upon filing.<sup>16</sup>

## 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 submissions should refer to the File No. SR-CBOE-00-07 and should be submitted by September 29, 2000.

<sup>13</sup> The Exchange requested the Commission to waive the 5 day pre-filing notice requirement and the 30-day operative period. See Amendment No. 1, *supra* n. 3.

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

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

<sup>16</sup> For purposes only of accelerating 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).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-23075 Filed 9-7-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43232; File No. SR-NASD-00-46]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Decimal Pricing for Listed Securities

August 30, 2000.

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 7, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, The Nasdaq Stock Market, Inc., ("Nasdaq") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On August 24, 2000, Nasdaq amended the proposed rule change.<sup>3</sup> Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>4</sup> and Rule 19-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission.<sup>6</sup> 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

On June 8, 2000, the Commission ordered the national securities exchanges and the NASD

("Participants") to submit a phase-in plan to the Commission July 24, 2000 providing for decimal pricing in exchange-listed securities and options by September 5, 2000, and for phasing in of decimal pricing for at least some Nasdaq securities by March 12, 2001, with decimalization extended to all exchange-listed securities, options and Nasdaq securities by April 9, 2001.<sup>7</sup> The June 8th Order also requires the exchanges and NASD file by August 7, 2000 rule changes necessary to implement the Plan.

The Participants have developed recommendations for a Phase-In Period for conversion to decimal pricing. These recommendations are contained in the Plan, which was submitted to the Commission on July 24, 2000. This Phase-In Period, which will consist of four Phases, will begin on August 28, 2000, and will end with full implementation of decimal pricing for all equities and options on or before April 9, 2001.

Nasdaq proposes to modify various NASD rules to support the commencement of the limited decimal pilot for Exchange-listed issues scheduled to start on August 28, 2000, as provided for in the Plan. Nasdaq also proposes to amend the appropriate rules to conform to proposed changes to the Intermarket Trading System ("ITS") Plan. Nasdaq has designated this proposal as non-controversial, and requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>8</sup> Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in [brackets].

\* \* \* \* \*

#### IM-2230. "Third Market" Confirmations

Members who act as brokers for customers in transactions in listed securities in the "third market," and members who make markets in such securities, have sought clarification and uniformity regarding the disclosures to be made to customers in situations in which the third market firms had confirmed to the retailing member plus or minus a differential, e.g., "20 plus 1/8" or "20 minus 1/8 for securities trading in fractions, or "\$20 plus \$.10 or \$20 minus \$.10 for securities trading in decimals." In some such cases the confirmation from the retailing member to the customer has indicated that the transaction was effected for the customer at a price of 20 and that the total commission paid by the customer was received by the retailing member, and it failed to disclose that the retailing member,

in effect, absorbed the 1/8 or \$.10 differential charged by the third market firm.

In cases such as those described above, where the retailing member effects an agency transaction for his customer with a third market firm at a price which is in line with the then current price on the exchange plus or minus a differential, with the retailer absorbing the differential charged by the third market firm, the following legend should be used by the retailing member to insure adequate disclosure on the confirmation to the customer:

We executed this transaction for you with a dealer who confirmed to us at the above price, plus (in the event you purchased) or less (in the event you sold) [a fraction of \* \* \*] \* \* \* cents per share. This [fraction] amount was absorbed by us out of the amount shown as our commission. Full details of this transaction are available upon request. \* The fractional amount absorbed may be shown, for example, as 1/8 or written one-eighth.

Failure to send an appropriate confirmation which conforms to the provisions hereof may involve not only conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, but also violations of rules of the Commission, particularly the confirmation rule, SEC Rule 10b-10.

\* \* \* \* \*

#### 3220. Adjustment of Open Orders

(a) No change.

(1) In the case of a cash dividend or distribution, the price of the order shall be reduced by subtracting the dollar amount of the dividend or distribution from the price of the order and rounding the result to the next lower minimum quotation variation used in the primary market, provided that if there is more than one minimum quotation variation in the primary market, then the greater of the variations shall be used (e.g., if a market has minimum quotation variations of 1/16 or 1/32 of a dollar for securities trading in fractions, depending on the price of the security, or \$.01 for securities trading in decimals, then the adjustment to open orders shall be in increments of 1/16 of a dollar for issues trading in fractions, and \$.01 for issues trading in decimals);

(2)-(3) No change.

(b)-(e) No change.

#### 3370. Prompt Receipt and Delivery of Securities

(a) No change.

(b) (1)-(4) No change.

(5) "Bona Fide Fully Hedged" and "Bona Fide Fully Arbitrated"

In determining the availability of the exemption provided in paragraph (b)(2)(B) above and in Rule 11830 from short sale requirements for "bona fide fully hedged" and "bona fide fully arbitrated" transactions, the following guidelines shall apply. These guidelines are for illustrative purposes and are not intended to limit the Association's ability to determine the proper scope of the terms "bona fide fully hedged" or "bona fide fully arbitrated" pursuant to this provision, on a case-by-case basis.

<sup>17</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> See Letter from Thomas P. Moran, Counsel, The Nasdaq Stock Market, Inc. ("Nasdaq"), to Alton Harvey, Chief, Office of Market Watch, Division of Market Regulation ("Division"), Commission, dated August 24, 2000 ("Amendment No. 1"). In Amendment No. 1, Nasdaq replaced the proposed rule text that was originally filed in its entirety.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> The Commission agreed to waive the 5-day pre-filing notice requirement because the proposal implements decimal pricing pursuant to the "Decimals Implementation Plan for the Equities and Options Markets" ("Plan") submitted to the Commission on July 24, 2000.

<sup>7</sup> Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000) ("June 8th Order").

<sup>8</sup> 17 CFR 240.19-b4(f)(6)(iii).