

rule change serve to ensure that RAES will continue to be for use by public customers for the automatic execution of their small market or marketable limit orders. The proposal also makes clear that certain other types of accounts will not be eligible to submit trades through RAES. The Exchange notes, however, that nothing would prevent the owners of these accounts from sending their orders to the floor for manual execution where they would receive firm quote treatment and execution at the NBBO.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and in general to protect investors and the public interest.

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

The CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulation 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

Within 35 days of the date of publication of this notice in the **Federal Register** or with such longer 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 Exchange consents, the Commission will:

(A) By order approve such 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, 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 filings will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-00-62 and should be submitted by January 18, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43744; File No. SR-CBOE-00-64]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Exchange Fees**

December 19, 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 December 1, 2000, 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 Exchange. 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 CBOE proposes to make a change to its fee schedule related to options on the CBOE Mini-NDX. The test of the proposed rule change is available at the CBOE and 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 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*

##### 1. Purpose

On August 29, 2000, the Commission approved the Exchange's proposed rule change to waive all customer fees for options on the CBOE Mini-NDX ("MNX<sup>SM</sup>").<sup>3</sup> The Exchange decided to waive these customer fees to promote the launch of the MNX product, which started trading on August 14, 2000. The purpose of the proposed rule change is to reinstate all customer fees relating to public customer MNX options orders effective on December 1, 2000.<sup>4</sup>

Specifically, the Exchange proposes to reinstate the transaction fee, trade match fee, floor brokerage fee and RAES fee for public customer MNX options orders. These customer fees will revert to the standard rates that currently apply to public customer orders for all other Exchange index options. The Exchange believes the customer fee waivers served the purposes of promoting a successful launch of the MNX product while generating significant savings for its

<sup>3</sup> See Securities Exchange Act Release No. 43221 (August 29, 2000), 65 FR 54333 (September 7, 2000). The Commission approved the trading of options on the CBOE Mini-NDX on June 30, 2000. See Securities Exchange Act Release No. 43000 (June 30, 2000), 65 FR 42409 (July 10, 2000).

<sup>4</sup> These "customer fees" are actually those fees assessed on Exchange members relating to public customer MNX options orders executed by such members. Telephone conversation between Jamie Galvan, Attorney, CBOE, and Geoffrey Pemble, Attorney, Division of Market Regulation, Commission, on December 19, 2000.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</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.

customers. The Exchange now proposes to charge customer fees for MNX options orders as it does for any other index product.

## 2. Statutory Basis

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act ("Act"),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among CBOE members.

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

The Exchange does not believe that the proposed rule change will 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 were neither solicited nor received.

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

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii)<sup>7</sup> of the Act and subapplicable (f)(2) of Rule 19b-4 thereunder.<sup>8</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 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 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-00-64 and should be submitted by January 18, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43743; File No. SR-ISE-00-15]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange, LLC Relating to an Interim Intermarket Linkage

December 19, 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 November 15, 2000, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. On December 13, 2000, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</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

The Exchange is proposing a rule authorizing implementation of "interim linkages" with the other options

exchanges. The interim linkage will permit qualified market makers on participating exchanges to send specified types of principal orders to other participating exchanges for automatic execution as if such orders were customer orders. Below is the text of the proposed rule change. Proposed new language is italicized.

#### Rule 721. Pilot Program for Away Market Maker Access

(a) *Definitions. Solely for the purpose of this Rule:*

(1) "Corresponding Rule" means a rule of a Participating Exchange that is substantially identical to this Rule 721.

(2) "Customer Size" means the lesser of (i) the number of option contracts that the Participating Exchange sending the order guarantees it will automatically execute at its disseminated quotation in an Eligible Option Class for Public Customer Orders and (ii) the number of option contracts that the Participating Exchange receiving the order guarantees it will automatically execute at its disseminated quotation in an Eligible Option Class for Public Customer Orders. This number shall be no fewer than 10.

(3) "Eligible Away Market Maker" ("EAMM") means, with respect to an Eligible Option Class, a market maker, as that term is defined in Section 3(a)(22) of the Exchange Act, on a Participating Exchange that:

(i) is assigned to, and is providing two-sided quotations in the Eligible Option Class; and

(ii) that is participating in its market's automatic execution system in such Eligible Option Class.

(4) "Eligible Away Principal Market Maker" ("EAPMM") means: with respect to the American Stock Exchange and the Philadelphia Stock Exchange, a Specialist in an Eligible Option Class; with respect to the Chicago Board Options Exchange, a Designated Primary Market Maker in an Eligible Option Class; and with respect to the Pacific Exchange, a Lead Market Maker in an Eligible Option Class.

(5) "Eligible Option Class" means all option series overlying a security, including both put and call options, which class is traded by the Exchange and at least one other Participating Exchange, to the extent that such Participating Exchanges have mutually agreed to include the option class in the Pilot Program.

(6) "Eligible Order" means an order for the account of a market maker, an EAMM or an EAPMM that can be sent to a Participating Exchange marked as a Public Customer Order pursuant to

<sup>9</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> In Amendment No. 1, the Exchange specified that the proposed interim linkage would be for a pilot period expiring on January 31, 2002. See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 11, 2000 ("Amendment No. 1").

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).