

review will include (but not be limited) (a) a comparison of the volume of transactions in each type of security conducted pursuant to the exemption to the market presence of the Dealer in the Market for that type of security, which market data may be based on good faith estimates to the extent that current formal data is not reasonably available, and (b) a determination that the Funds are maintaining appropriate trading relationships with other sources for each type of security, to ensure that there are appropriate sources for the quotations required by condition 3. The minutes of the meetings of the Trustees of the Trust at which these determinations are made will reflect in detail the reasons for the Trustees' determinations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43867; File No. SR-CBOE-01-01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to a Four Month Extension to the Pilot Program to Eliminate Position and Exercise Limits for SPX, OEX, and DJX Options, and FLEX Options Overlying These Indexes

January 22, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 18, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" 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 Exchange. The proposed rule change has been filed by the CBOE as a "non-controversial" rule change under Rule 19b-4(f)(6)³ under the Act. 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 seeks a four month extension of the pilot program that provides for the elimination of position and exercise limits for the S&P 500 Index ("SPX"), S&P 100 Index ("OEX"), and Dow Jones Industrial Average ("DJX") index options as well as for FLEX options overlying these indexes. 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, the Exchange 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 Exchange 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 January 22, 1999, the Commission approved a two-year pilot program ("Pilot Program") that allowed for the elimination of position and exercise limits for options on the OEX, SPX, DJX as well as for FLEX options overlying these indexes.⁴ The purpose of this proposed rule change is to request a fourth-month extension of the Pilot Program.⁵

The Approval Order required the Exchange to submit a report to the Commission on the status of the Pilot Program so that the Commission could use this information to evaluate any consequences of the program and to determine whether to approve the elimination of position and exercise limits for these products on a permanent basis.⁶ The CBOE submitted the

⁴ See Securities Exchange Act Release No. 40969 (January 22, 1999), 4 FR 49111 (February 1, 1999) (approving SR-CBOE-99-23). ("Approval Order")

⁵ By separate filing, CBOE requests permanent approval of the Pilot Program.

⁶ In the Approval Order, the Commission stated: "CBOE will provide the Commission with a report detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. In addition, the report will note whether any problems resulted due to the no limit approach and any other

required report to the Commission on December 21, 2000.⁷ The report indicates that during the review period, CBOE did not discover any instances where an account maintained an unusually large unhedged position. The data from the report found that only 12 accounts established positions in excess of 10% of the standard limit applicable to each index at the time the Pilot Program was approved. These positions were all in SPX and most were established by firms and market makers. All of the accounts were hedged, although to different degrees. Most important, CBOE's analysis did not discover any aberrations caused by large unhedged positions during the life of the Pilot Program. For this reason, the Exchange believes that its experience with the Pilot Program has been positive. Accordingly, CBOE requests that the effectiveness of the Pilot Program be extended four months.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)⁸ of the Act in general and furthers the objectives of Section 6(b)(5)⁹ in particular in that it is designed to promote just and equitable principles of trade as well as to protect investors and the public interest, by allowing for the extension of a Pilot Program that has enable more business to be transacted on the exchanges that might otherwise have been transacted in the over the counter ("OTC") market without the benefit of Exchange transparency and the guarantee of The Options Clearing Corporation. The Exchange also believes that the proposed rule change is consistent with section 11A of the Act¹⁰ in that it will enhance competition by allowing the Exchange to compete better with the OTC market in options and with entities not subject to position limit rules.

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

The Exchange represents that the proposed rule change will impose no burden on competition that is not

information that may be useful in evaluating the effectiveness of the pilot program. The Commission expects the CBOE will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop."

⁷ Letter from Patricia L. Cerny, Director, Office of Trading Practices, CBOE, to Elizabeth King, Associate Director, Division of Market Regulation ("Division"), SEC, dated December 21, 2000.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C 78k-1.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder¹² because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest.¹³ 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 the furtherance of the purposes of the Act.¹⁴

The Exchange has requested that the rule change be accelerated to become operative on January 22, 2001, because such action will allow the Exchange to continue the Pilot Program without interruption while the Commission determines whether to approve the Pilot Program on a permanent basis. The Commission finds that accelerating the operative date of the rule change to prevent interruption of the Pilot Program is consistent with the protection of investors and the public interest, and thus designates January 22, 2001 as the operative date of this filing.

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 File No. SR-CBOE-01-01 and should be submitted by February 20, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43876; File No. SR-NASD-01-07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. to Establish Minimum Quotation Increment for Securities Quoting in Decimals

January 23, 2001

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 22, 2001, 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. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A)

of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change from interest persons.

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

Nasdaq proposes to amend NASD Rule 4613, "Character of Quotations," to adopt a \$0.01 minimum quotation increment for Nasdaq securities as previously agreed to as part of the Decimals Implementation Plan for the Equities and Options Markets ("Implementation Plan" or "Plan") submitted to the Commission on July 24, 2000. Because this proposal simply implements the terms and conditions of the Implementation Plan, Nasdaq has designated this proposal as non-controversial, rendering it effective upon filing with the Commission. Nasdaq asks that the Commission waive the 30-day operative waiting period pursuant to SEC Rule 19b-4(f)(6)(iii).⁶ Nasdaq will implement this rule change on March 12, 2001. The text of the proposed rule change is below. Proposed new language is in italics. Proposed deletions are in brackets.

4613. Character of Quotations

(a) Two-Sided Quotations

(1) No Change.

(A) No Change.

(B) No Change.

(C) No Change.

(D) *Minimum Price Variation for Decimal-based Quotations*

The minimum quotation increment for securities authorized for decimal pricing as part of the SEC-approved Decimals Implementation Plan for the Equities and Options Markets shall be \$0.01. Quotations failing to meet this standard shall be rejected.

(2) No Change.

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these

¹ 15 U.S.C. 78s(b)(3)(A).

² 17 CFR 240.19b-4(f)(6).

³ Nasdaq asked, and the Commission agreed, to waive the 5-day pre-filing notice requirement. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). 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).

¹³ The Commission has determined to waive the requirement that CBOE provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date. Telephone conversation between Patricia Cerny, Office of Trading Practices, CBOE, and Sharon L. Lawson, Senior Special Counsel, Division, SEC, on January 12, 2001.

¹⁴ 15 U.S.C. 78s(b)(3)(C).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.