

jurisdiction over energy marketing activities outside the United States and Canada pending the completion of the record in this proceeding. Applicants also request authority for the Nonutility Subsidiaries to provide energy management services and consulting services anywhere outside the United States. Applicants request that the Commission reserve jurisdiction over other energy-related activities outside the United States, pending completion of this record.

X. Payment of Dividends Out of Capital or Unearned Surplus

AER proposes, on behalf of itself and each of its nonexempt Nonutility Subsidiaries, that these companies be permitted to pay dividends out of capital and unearned surplus and to acquire, retire, or redeem securities that AER or any Nonutility Subsidiary has issued to any associate company, to the extent permitted under applicable corporate law and the terms of any applicable credit or security agreements. AER anticipates that there will be situations in which it or one or more Nonutility Subsidiaries will have unrestricted cash available for distribution in excess of any such company's current and retained earnings. In these situations, the declaration and payment of a dividend would be charged, in whole or in part, to capital or unearned surplus.

AER, on behalf of itself and each nonexempt Nonutility Subsidiary represents that it will not declare or pay any dividend or acquire, retire or redeem any securities of which any of these Nonutility Subsidiaries is the issuer that are held by an associate company, out of capital or unearned surplus in contravention of any law restricting the payment of dividends or the terms of any credit or security agreements.¹²

XI. Investments in EWGs and FUCOs

Alliant Energy requests authority to use the proceeds of authorized financing and Alliant Energy Guaranties to make investments in EWGs and FUCOs in an amount which, when added to Alliant Energy's existing aggregate investment, would not exceed \$1.75 billion. Based on Alliant Energy's aggregate investments as of March 31, 2001 (approximately \$355.9 million), this would enable Alliant Energy to make incremental investments in EWGs and FUCOs of about \$1.39 billion. Alliant Energy, through subsidiaries of AER,

currently holds interests in various foreign electric generation and distribution utility companies that have been certified as FUCOs. Alliant Energy does not hold an interest in any EWG at this time, but is investigating several potential investments.¹³ As of March 31, 2001, Alliant Energy's aggregate investment in all of these entities was approximately \$355.9 million. An aggregate investment in EWGs and FUCOs in an amount equal to \$1.75 billion would be equal to about 160% of Alliant Energy's average consolidated retained earnings¹⁴ as of March 31, 2001 (\$1.093 billion).

Alliant Energy further represents that it will maintain common equity as a percentage of its consolidated capitalization (inclusive of short-term debt) at 30% or above during the Authorization Period, and will also maintain common equity as a percentage of capitalization of each of Alliant Energy's utility subsidiaries at 30% or above during the Authorization Period.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-18169 Filed 7-19-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [66 FR 36811].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: July 13, 2001.

CHANGE IN THE MEETING: Time Change.

The closed meeting scheduled for Thursday, July 19, 2001 at 11:00 a.m. time has been changed to Thursday, July 19, 2001 at 9:00 a.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further

¹³ The largest concentration of Alliant Energy's foreign investments is in Brazil, followed by New Zealand and Australia. Alliant Energy has also made relatively small investments in China and Mexico.

¹⁴ "Consolidated retained earnings" is defined in rule 53(a)(1)(ii) to mean the average of the consolidated retained earnings of the registered system as reported for the four most recent quarterly periods in the holding company's Annual Report on Form 10-K or Quarterly Report on Form 10-Q filed under the Securities Exchange Act of 1934.

information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 945-7070.

Dated: July 17, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01-18297 Filed 7-18-01; 11:17 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44556; File No. SR-CBOE-2001-39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Addition of European-Style Exercise Option Series on the OEX

July 16, 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 July 10, 2001, 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 CBOE. The proposed rule changes has been filed by the CBOE as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.³ 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: (1) Introduce for trading new series of European-style exercise options on the Standard & Poor's 100 Stock Index ("OEX"); and (2) include the new European-style options in a pilot program ("Pilot Program") that eliminates position and exercise limits for OEX and other index options.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)

⁴ On January 22, 1999, the Commission approved a two-year Pilot Program that eliminated position and exercise limits for options on the S&P 500 Index ("SPX"), OEX, and Dow Jones Industrial Average ("DJX") as well as for FLEX options overlying those indexes. See Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 49111 (Feb. 1, 1999) (approving SR-CBOE-98-23) ("Approval Order"). By order dated January 30, 2001, the Commission extended the Pilot Program

¹² The Commission has previously authorized substantial similar proposals. See Current Financing Order; also see *NiSource Inc.*, Holding Co. Act Release No. 27265 (Nov. 1, 2000).

The text of the proposed rule change is available at 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 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 parts of such statements.

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

1. Purpose

The Exchange currently lists for trading American-style options on the OEX.⁵ "American-style" exercise allows investors to exercise their positions on any given business day prior to expiration.⁶ This creates what is known as early exercise or assignment risk. Specifically, when an OEX option is exercised prior to expiration, that option is "assigned" to an option writer. Thus, writers of OEX options are subject to the risk each day that same or all of their option may be exercised. A writer that receives an assignment can have his trading strategy affected in a negative manner.

The Exchange believes that the risk of early exercise and assignment could be driving current users away from the OEX as well as deterring potential new users, both of which could have a negative effect on liquidity. Member firms have indicated to the Exchange the desire to trade OEX option series that do not subject them to early exercise and assignment risk. Accordingly, the Exchange proposes to

introduce series of OEX options with European-style exercise.⁷

The same index will underlie both the "new" and existing series of OEX options. Contract specifications for the "new" series will be identical to the existing series with the exception of the exercise style. Thus, the "new" series also will be cash-settled and feature P.M.-settlement. The Exchange presently intends to trade the "new" European-style series of OEX options in the existing OEX pit under a separate symbol, XEO.⁸ The Exchange notes that this is identical to the way that options on the SPX traded when the Exchange listed both A.M. and P.M.-settled SPX option series.⁹

As Noted above the American-style OEX series currently are not subject to position limits.¹⁰ The Exchange hereby proposes to include European-style OEX series within the scope of that Pilot Program. Accordingly, both the American- and European-style series of the OEX will not be subject to position limits.

The CBOE believes it is reasonable to allow the European-style OEX series also to trade without position limits because they represent additional series of an existing product that the Commission has approved previously for non-position limit trading. The CBOE believes that waiving position limits for all OEX series, American- and European-style alike, will help to ensure that investors can continue to hedge SPX positions with OEX positions (and vice versa). The CBOE notes that, given the high correlation between the two indexes, many traders hedge positions in one index with positions in the other. The CBOE believes that subjecting European-style OEX series to position limits while allowing SPX to trade without position limits could limit severely the utility of this trading strategy.

The Exchange notes that it currently has the surveillance capabilities to detect any trading aberrations involving large positions in SPX and American-style OEX.¹¹ The Exchange states that

upon introduction of European-style OEX series, these surveillance procedures will be expanded to monitor trading activity in the European-style series. Finally, the Exchanges notes that all of the representations it made in the Approval Order with respect to OEX options will apply to European-style OEX series as well.

The Exchange notes the Pilot Program altered the reporting thresholds applicable to OEX, DJX, and SPX options.¹² Specifically, the Pilot Program increased to 100,000 contracts the reporting threshold for positions in OEX options. The Exchange intends to require European-style OEX series be subject to the same reporting requirement. Moreover, the Exchange proposes that positions in the American- and European-style OEX series be aggregated for purposes of complying with this requirement. Accordingly, any combination of 100,000 contracts involving OEX American-style and OEX European-style series must be reported to the Exchange pursuant to CBOE Rule 24.4.03. The Exchange also notes that CBOE Rule 24.4.04, which authorizes the imposition of additional margin in OEX positions, will apply to all OEX series, whether European- or American-style.

Prior to commencement of trading of the "new" series, the Exchange will distribute to members an informational circular apprising them of the addition of the European-style OEX series. This circular will highlight the difference in exercise methodology between the series, identify the new symbols for the European-style series, and identify the initial expiration months and strike prices available for trading.¹³ This circular also will indicate that, for purposes of the reporting requirement of CBOE Rule 24.4.03, positions in both series of OEX will be aggregated. The Exchange's public relations department will issue press releases to the media as a means to inform investors of the

2000. The report indicated that during the review period, the CBOE did not discover any instances where an account maintained an unusually large unhedged position. In fact, 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. The CBOE's analysis did not discover any aberrations caused by large unhedged positions during the life of the Pilot Program.

¹² Reporting thresholds are the contract levels at which members are required to report information regarding customer positions to the Exchange.

¹³ This information circular will clarify that the American-style OEX series will retain the existing OEX symbols while the European-style series will trade under the XEO symbol.

until May 22, 2001. See Securities Exchange Act Release No. 43867 (Jan. 22, 2001), 66 FR 8250 (Jan. 30, 2001) (approving SR-CBOE-01-01). By order dated May 22, 2001, the Commission extended the Pilot Program until September 22, 2001. See Securities Exchange Act Release No. 44335 (May 22, 2001), 66 FR 29369 (May 30, 2001) (approving SR-CBOE-2001-26). The Exchange has a requested permanent approval of the Pilot Program. See File No. SR-CBOE-2001-22. The Commission has not acted on File No. SR-CBOE-2001-22.

⁵ The OEX is a broad-based, capitalization-weighted index that is cash-settled.

⁶ The amount of cash received upon exercise depends on the closing value of the index in comparison to the strike price of the option.

⁷ European-style option can be exercised only during a specified time period prior to expiration.

⁸ The existing American-style series will continue to trade under the existing OEX symbols.

⁹ See Exchange Act Release 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (order approving SR-CBOE-92-09) ("1992 Order").

¹⁰ See *supra* note 4.

¹¹ The Approval Order required the Exchange to submit a report to the Commission on the status of the Pilot Program to allow the Commission 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. The CBOE submitted the required report to the Commission on December 21,

additional investment choices now available with the addition of the European-style OEX series. Finally, the Exchange will publicize on its website the introduction of the new European-style OEX series. The Exchange notes that these procedures, with the exception of the website publication, are similar to the procedures used when the Exchange listed both A.M.- and P.M.-settled SPX Index options in 1992.¹⁴

2. Statutory Basis

The addition of European-style OEX series will create an investment option that eliminates the risk of early exercise and assignment, which the CBOE believes will appeal to many institutions, professional traders, and investors. The Exchange believes that the introduction of new European-style exercise series will attract order flow back to the index floor. Moreover, the retention, and simultaneous trading, of American-style OEX options will allow investors to determine which product is most appropriate for them, thus enabling them to tailor more precisely their investment strategy. For these reasons, the Exchange believes that the proposed rule change is consistent with section 6 of the Act¹⁵ in general, and furthers the objectives of section 6(b)(5) of the Act¹⁶ in particular, because it is designed to promote just and equitable principles of trade as well as to protect investors and the public interest.

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

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 Exchange 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 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) the CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five

business days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹⁷ and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing.¹⁸ However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.¹⁹ The CBOE has requested that the Commission designate such shorter time period and accelerate the operative date of the proposal to July 20, 2001, so that the Exchange may begin trading the new European-style series of OEX options after the July expiration.

The CBOE states that introducing the new series of European-style OEX options on the first day after expiration Friday will allow investors to establish positions on the first day of the monthly cycle. The CBOE also believes that the proposal does not raise new, novel, or complex regulatory issues. In addition, the CBOE notes that the Commission previously approved OEX options for trading and European-style index options for trading, and that the proposal permits the trading of new European-style options series on the OEX.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative on July 20, 2001, to allow investors to establish positions in the new series of European-style OEX options on the first day of the monthly cycle.²⁰ The Commission believes that the new series of European-style OEX options will provide investors with an additional investment choice and may help to increase liquidity in OEX options.

The Commission believes that the proposal to include European-style OEX options in the position and exercise limit Pilot Program will provide consistent treatment of American-style and European-style OEX options for position and exercise limit purposes. In addition, the Commission believes that the aggregation of positions in American-style and European-style OEX options for purposes of the 100,000-contract reporting threshold is consistent with the purpose of the reporting threshold and will help to

ensure the continued effectiveness of the reporting threshold.

The Commission notes that prior to the commencement of trading of the new European-style OEX series, the CBOE will distribute to members an information circular advising them of the addition of the new series. The information circular will note the difference in exercise style, identify the new symbols for the European-style OEX series, identify the initial expiration months and strike prices available for trading, and indicate that positions in American-style OEX options will be aggregated for purposes of the 100,000-contract OEX reporting threshold provided in the Pilot Program.

For all of the reasons set forth above, the Commission finds that it is consistent with the protection of investors and the public interest for the proposal to become operative on July 20, 2001. At any time within 60 day of the filing of such 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 in the Commission's Public Reference room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File no. SR-CBOE-2001-39 and should be submitted by August 10, 2001.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ See 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ *Id.*

²⁰ For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ See 1992 Order, *supra* note 9.

¹⁵ 15 U.S.C. 78f.

¹⁶ 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-18170 Filed 7-19-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44558; File No. SR-NASD-99-12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2 and 3 by the National Association of Securities Dealers, Inc. To Establish a Pilot Program To Provide Daily Share Volume Reports via NasdaqTrader.com

July 16, 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 February 18, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its 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 March 24, 1999, Nasdaq amended the proposal.³ The original proposal and Amendment No. 1 were published in the **Federal Register** on April 9, 1999 for notice and comment.⁴ On May 30, 2001, the NASD again amended the proposal, which amendment completely replaces and supersedes the original filing and Amendment No. 1.⁵ On July 10, 2001,

Nasdaq again amended the proposal.⁶ 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

Nasdaq proposes to amend NASD Rule 7010, Systems Services, to establish a fee for the Volume and Issue Data Package provided through the NasdaqTrader.com web site. The text of the proposed rule change is below. Proposed new language is in italics.

Rule 7010 System Services

(a)-(o) No changes.

(p) *NasdaqTrader.com Volume and Issue Data Package Fee. The charge to be paid by the subscriber for each entitled user receiving the Nasdaq Volume and Issue Data Package via NasdaqTrader.com shall be \$70 per month. The charge to be paid by market data vendors for this information shall be \$35 per month for each end user receiving the information through the data vendor. The availability of this service through NasdaqTrader.com shall be limited to NASD members, Qualified Institutional Buyers* and data vendors. The Volume and Issue Data package includes:*

- (1) Daily Share Volume reports
- (2) Daily Issue Data
- (3) Monthly Volume Summaries

*For purposes of this service, see definition of "Qualified Institutional Buyer" found in Rule 144A of the Securities Act of 1933.

* * * * *

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 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. Nasdaq 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

Nasdaq proposes to establish a fee for a voluntary trading data distribution facility, accessible to NASD members, buy-side institutions (Qualified Institutional Buyers ("QIBs"))⁷ and market data vendors through its NasdaqTrader.com web site. Under the proposal, subscribers to this service, as well as retail customers of participating market data vendors, will be able to obtain the Volume and Issue Data Package, proposed to be name "Nasdaq Post Data" ("Post Data").

Post Data will consist of three separate reports that will be provided as a single package. The first item will be the Daily Share Volume Report, to be named "Nasdaq Volume Post," which will provide subscribers with access to T+1 daily share volume in each Nasdaq security, listing the volume by each NASD member firm that reports volume in the security and has voluntarily chosen to permit the dissemination of this information. The daily share volume will be verified for accuracy by Nasdaq's Automated Confirmation Transaction Service ("ACT"). The second item, the "Daily Issue Data" report, will contain a summary of the previous day's activity for every Nasdaq issue. The third item, "Monthly Summaries," will provide monthly trading volume statistics for the top 50 market participants, broken down by industry sector, security, or type of trading (e.g., block or total).

Post Data will be made available in two ways through the NasdaqTrader.com web site. The information will be provided to market data vendors to be redistributed to their retail customers for which the data vendor will pay a \$35 per month fee to Nasdaq for each end user obtaining this information. The information will also be provided directly to subscribers, limited to NASD members and non-NASD member QIBs, for a fee of \$70 per month.

Nasdaq filed this proposal in direct response to requests from professional Nasdaq market participants to increase the availability of Nasdaq-verified

⁷ For purposes of this service, Nasdaq will rely on the definition of "Qualified Institutional Buyer" found in Rule 144A of the Securities Act of 1933. 17 CFR 230.144A.

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On February 18, 1999, Nasdaq submitted its initial proposal to provide only T+1 daily share volume reports in each Nasdaq security to market data vendors, NASD members, and non-NASD member Qualified Institutional Buyers ("QIBs") as defined in Rule 144A under the Securities Act of 1933. 17 CFR 230.144A. After discussions with at least one market data vendor, and internal discussions at Nasdaq, Nasdaq filed an amendment on March 24, 1999 ("Amendment No. 1"). Amendment No. 1 completely replaced and superseded the original proposal.

⁴ Securities Exchange Act Release No. 41244 (April 1, 1999), 64 FR 17429.

⁵ See May 29, 2001 letter from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), SEC and attachments ("Amendment No. 2"). Amendment No. 2 completely replaced and superseded Amendment No. 1. In Amendment No. 2, Nasdaq proposed new fees.

⁶ See July 9, 2001 letter from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, to Belinda Blaine, Associate Director, Division, SEC ("Amendment No. 3"). In Amendment No. 3, Nasdaq: (1) Clarified that Amendment No. 2, as further amended by Amendment No. 3, should replace and supersede entirely the original proposal and Amendment No. 1; (2) clarified that the proposal is filed by the Association through its subsidiary, Nasdaq; (3) clarified that the asterisked footnote at the bottom of pages three and nine of Amendment No. 2 that defines "Qualified Institutional Buyer" should be included in the proposed rule language of Section 7010(p); (4) clarified that modifications to Nasdaq Post Data during the pilot period will be limited to minor enhancements to the content of the package made in accordance with Section 19(b) of the Act and Rule 19b-4 thereunder; and (5) provided an explanation of the rationale underlying the choice of the fees for Nasdaq Post Data.