Section 19(a) authorizes the Commission to prescribe the form of the statement by rule.

Rule 19a–1 (17 CFR 270.19a–1) under the Act is entitled: ''Written Statement to Accompany Dividend Payments by Management Companies.'' Rule 19a–1 sets forth specific requirements for the information that must be included in statements made under section 19(a) by registered investment companies. The rule requires that the statements indicate what portions of the payment are made from net income, net profits and paid-in capital.[2] When any part of the payment is made from net profits, the rule requires that the statement disclose certain other information relating to the appreciation or depreciation of portfolio securities. If an estimated portion of the payment is subsequently determined to be significantly inaccurate, a correction must be made on a statement made under section 19(a) or in the first report to shareholders following the discovery of the inaccuracy. The purpose of Rule 19a–1 is to afford fund shareholders adequate disclosure of the sources from which dividend payments are made.

The Commission staff estimates that approximately 8,400 portfolios of management companies may be subject to Rule 19a–1 each year.[3] The total average annual burden for Rule 19a–1 per portfolio is estimated to be approximately 30 minutes.[4] The total annual burden for all portfolios therefore is estimated to be approximately 4,200 burden hours.

Compliance with the collection of information required by Rule 19a–1 is mandatory for management companies that make written statements to shareholders pursuant to section 19(a) of the Act. Responses will not be kept confidential.

Rule 22d–1 (17 CFR 270.22d–1) under the Investment Company Act provides registered investment companies that issue redeemable securities an exemption from section 22(d) of the Investment Company Act to the extent necessary to permit scheduled variations in or elimination of the sales load on fund securities for particular classes of investors or transactions, provided certain conditions are met. The rule imposes an annual burden per series of a fund of approximately 15 minutes, so that the total annual burden for the approximately 6,100 series of funds that might rely on the rule is estimated to be 1,525 hours. The collection of information required by Rule 22d–1 is mandatory. Responses will not be kept confidential.

Rule 30b2–1 under the Investment Company Act (17 CFR 270.30b2–1) requires the filing of four copies of every periodic or interim report transmitted by or on behalf of any registered investment company to its stockholders.[5] This requirement ensures that the Commission has information in its files to perform its regulatory functions and to apprise investors of the operational and financial condition of a registered investment companies.[6]

It is estimated that approximately 3,700 registered management investment companies are required to send reports to stockholders at least twice annually. In addition, under recently proposed amendments to Rule 30b2–1, if adopted, each registered investment company would be required to file with the Commission new form N–CSR, certifying the financial statements. The annual burden of filing the reports is included in the burden estimate for Form N–CSR.

The collection of information under Rule 30b2–1 is mandatory. The information provided by Rule 30b2–1 is not kept confidential.

Form ADV–E (17 CFR 279.8) is the cover sheet for accountant examination certificates filed pursuant to Rule 206(4)–2 under the Investment Advisers Act by investment advisers retaining custody of client securities or funds. The annual burden is approximately three minutes per respondent.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 14, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010–01–P**

[2] Rule 19a–1 requires, among other things, that every written statement made under Section 19 of the Act by or on behalf of a management company clearly indicate what portion of the payment per share is made from the following sources: net income for the current or preceding fiscal year, or accumulated undistributed net income, or both, not including in either case profits or losses from the sale of securities or other properties; accumulated undistributed net profits from the sale of securities or other properties; and paid-in surplus or other capital source.

[3] The Commission staff estimates that there are approximately 3,800 registered investment companies that are ''management companies'' as defined by the Act, and each may have one or more separate portfolios that report dividends to shareholders. The Commission's records indicate that those 3,800 management companies have approximately 8,200 portfolios that report paying dividends, and so may be subject to Rule 19a–1.

[4] According to respondents, no more than approximately 15 minutes is needed to make the determinations required by the rule and include the required information in the shareholders' dividend statements. The Commission staff estimates that, on average, each portfolio mails two notices per year to meet the requirements of the rule, for an average total annual burden of approximately 30 minutes.

[5] Most filings are made via the Commission's electronic filing system; therefore, paper filings under Rule 30b2–1 occur only in exceptional circumstances. Electronic filing eliminates the need for multiple copies of filings.

[6] Annual and periodic reports to the Commission become part of its public files and, therefore, are available for use by prospective investors and stockholders.

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–47659; File No. SR–CBOE–2002–36]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Regarding Closing-Only Transactions

April 10, 2003.

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 June 27, 2002, 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. On April 2, 2003, the CBOE filed Amendment No. 1 that entirely replaced the original rule filing.[3] The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Andrew Spiwak, Director Legal Division and Chief Enforcement Attorney, CBOE, to John Roeser, Special Counsel, Division of Market Regulation, Commission, dated April 1, 2003.

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 Exchange proposes to amend its rules to address certain issues regarding closing-only transactions. Below is the text of the proposed rule change. Additions are *italicized*.

* * * * *

**Chapter V Securities Dealt in Designation of Securities**

* * * * *

**Withdrawal of Approval of Underlying Securities**

Rule 5.4. Whenever the Exchange determines that an underlying security previously approved for Exchange option transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and therefore *two floor officials, in consultation with a designated senior executive officer of the Exchange,* may prohibit any opening purchase transactions in series of options of that class previously opened *(except that (i) opening transactions by market-makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by CBOE member organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with CBOE Rule 6.74(b) or (d) may be permitted)*, to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares or publicly held principal amount, number of shareholders, trading volume or market price*, the Exchange,* in the interest of maintaining a fair and orderly market or for the protection of investors, may determine to continue to open additional series of option contracts of the class covering that underlying security. When all option contracts in respect of any underlying security that is no longer approved have expired, *the Exchange* may make application to the Securities and Exchange Commission to strike from trading and listing all such option contracts.

* * * Interpretations and Policies:

* * * * *

.05 If prior to the delisting of a class of option contracts covering an underlying security which has been found not to meet the Exchange's requirements for continued approval, the Exchange shall determine that the underlying security again meets the Exchange's requirements for such underlying security, the Exchange*,* may open for trading additional series of options of that class, and *two floor officials, in consultation with a designated senior executive officer of the Exchange,* may lift any restriction on opening purchase transactions imposed under this Rule.

* * * * *

.08 Securities consisting of shares or other securities (''Units'') that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that were initially approved for options trading pursuant to Interpretation and Policy .06 under Rule 5.3 shall be deemed not to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Units, in accordance with the terms of paragraph (f) of Interpretation and Policy .01 of this Rule 5.4. In addition, *two floor officials, in consultation with a designated senior executive officer of the Exchange,* shall consider the suspension of opening transactions in any series of options of the class covering Units in any of the following circumstances:

(a) In the case of options covering Units approved pursuant to clause (D)(x) under Interpretation and policy .06 of Rule 5.3, in accordance with the terms of paragraphs (a), (b), (c) and (d) of Interpretation and Policy .01 of this Rule 5.4;

(b) In the case of options covering Units approved pursuant to clause (D)(y) under Interpretation and Policy .06 of Rule 5.3, following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange or as NMS securities through the facilities of a national securities association there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; or

(c) The value of the index or portfolio of securities on which the Units are based is no longer calculated or available.

.09 Absent exceptional circumstances, securities initially approved for options trading pursuant to Interpretation and Policy .07 under Rule 5.3 (such securities are defined and referred to in that Interpretation and Policy as ''Trust Issued Receipts'') shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, *two floor officials, in consultation with a designated senior executive officer of the Exchange,* shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

(1) In accordance with the terms of paragraphs (a) through (g) of Interpretation and Policy .01 of this Rule 5.4 in the case of options covering Trust Issued Receipts when such options were approved pursuant to paragraph (a)(i) of Interpretation and Policy .07 under Rule 5.3;

(2) The Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

(3) The trust has fewer than 50,000 receipts issued and outstanding;

(4) The market value of all receipts issued and outstanding is less than $1,000,000; or

(5) Such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

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**Chapter VIII Market-Makers, Trading Crowds and Modified Trading Systems**

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**Section B: Trading Crowds**

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**Firm Disseminated Market Quotes**

**Rule 8.51**

* * * * *

Interpretations and Policies:

*.11 If, pursuant to paragraph (e) of this Rule, non-firm mode applies to an options class because the security underlying such options class has been delisted and is subsequently traded on*

*the OTC Bulletin Board, Pink Sheets or similar trading system, and opening transactions have been prohibited pursuant to CBOE Rule 5.4, the Exchange shall monitor the activity or condition of the market and paragraph (e)(4) of this Rule shall not apply.*

* * * * *

**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

The proposed rule change would amend CBOE Rule 5.4 and add an interpretation to CBOE Rule 8.51 to address certain issues dealing with options that have closing-only restrictions. The proposed change to CBOE Rule 5.4 would give two floor officials, in consultation with a designated senior executive officer of *the Exchange,* the authority to prohibit opening purchase transactions for equity options whenever the Exchange has determined that an underlying security previously approved for Exchange option transactions does not meet the current requirements for continuance of such approval. For example, the proposed rule change would be applicable when a security underlying an option has been delisted and is subsequently traded on the OTC Bulletin Board, Pink Sheets or similar trading system. In the aforementioned situation, the rule would also permit certain types of opening transactions by members to accommodate the closing transactions of other market participants. Specifically, in these situations, the rule would permit: (i) Opening transactions by market-makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by CBOE member organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with CBOE Rule 6.74(b) or (d) (Crossing Orders). Similar changes are proposed to Interpretations and Policies .05 (to lift restrictions on opening transactions if the underlying security, which previously did not meet the Exchange's listing standards, again meets the Exchange's listing standards), .08 (for securities consisting of shares or other securities that represent interests in registered investment companies organized as open-end management investment companies, unit investment trusts or similar entities) and .09 (for Trust Issued Receipts). Currently, the Exchange has the authority to prohibit an opening purchase transaction in an option, but must seek approval through the Office of the Chairman. This proposed rule change to grant this authority to two floor officials and a senior executive officer of the Exchange would make CBOE Rule 5.4 consistent with other CBOE rules involving trading halts and similar types of actions for index options and provides for greater efficiency when invoking a restriction or prohibition in a delisted or restricted option class.[4]

The proposed change to Interpretation and Policy .11 under CBOE Rule 8.51 deals with the implementation of non-firm mode for options that are restricted to closing-only transactions. Currently, CBOE Rule 8.51(e)(4) requires that when a series or class of option is in non-firm mode for purposes of the firm quote rule, the DPM and floor officials must review and reaffirm the condition of the market every 30 minutes. The proposed change to the interpretation and policies of CBOE Rule 8.51 sets forth that in situations in which opening transactions have been prohibited in an option where the underlying security has been delisted and is subsequently traded on the OTC Bulletin Board, Pink Sheets or a similar trading system, and the Exchange has invoked that only closing transactions may occur, as set forth above, the Exchange would monitor the activity or condition of the market. However, the DPM and floor officials would not be required to review and reaffirm the market conditions causing the non-firm mode designation every 30 minutes. The Exchange believes it is necessary to invoke non-firm mode pursuant to Exchange Rule 8.51(e) when a security is no longer listed on a national securities exchange or traded through a national securities association and reported as a national market system security, due to the fact that the Exchange is unable to directly receive an electronic quotation feed from the OTC Bulletin Board or Pink Sheets. The Exchange believes that in these specific situations, the Exchange is incapable of collecting quotations in the underlying security that accurately reflect the true state of the market. For these options, the market conditions that caused the non-firm mode designation will not change. Therefore, the Exchange believes that the need to review market conditions every 30 minutes is not necessary.[5] In addition, the Exchange would be required to notify investors of the non-firm mode through the dissemination of a message code via OPRA. Furthermore, the Exchange would issue a Regulatory Circular to its members reflecting trading restrictions as described above.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general and furthers the objectives of Section 6(b)(5)[7] in particular in that it promotes just and equitable principles of trade and protects investors and the public interest. Further, the Exchange believes that the proposed rule change to CBOE Rule 5.4 promotes just and equitable principles of trade by granting floor officials authority along with a senior executive officer of the Exchange, which is consistent with authority granted to floor officials and a senior executive officer of the Exchange in other Exchange rules dealing with similar situations, such as trading halts and those applicable to index options.

The proposed change to the Interpretation and Policy .11 of CBOE Rule 8.51 is designed to protect investors and the public interest. Since the market conditions for options that are subject to closing-only restrictions are not likely to change, the need to review and reaffirm the market conditions every 30 minutes is not necessary in a closing transaction only restriction situation.

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

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

[4] *See* Exchange Rules 6.3 Trading Halts and Rule 24.7 Trading Halts, Suspensions, or Primary Market Closure.

[5] The Exchange represents, and the proposed rule would require, that the Exchange would monitor the market conditions, as is required by Rule 11Ac1–1 under the Act. 17 CFR 240.11Ac1–1.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

*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**

Within 35 days of the date of publication of this notice in the **Federal Register** or within 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 self-regulatory organization 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, as amended, 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 also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2002–36 and should be submitted by May 12, 2003.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–9699 Filed 4–18–03; 8:45 am]

**BILLING CODE 8010–01–P**

[8] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–47675; File No. SR–NQLX–2003–03]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by Nasdaq Liffe Markets, LLC To Amend Its Initial Listing Standards and Maintenance Standards for Single Stock Futures

April 14, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on January 27, 2003, Nasdaq Liffe Markets, LLC (''NQLX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in items I, II, and III below, which Items have been prepared by the NQLX. On April 4, 2003, NQLX filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proprosed rule changes, as amended, from interested persons.

On January 27, 2003, NQLX submitted the proposed rule change to the Commodities Futures Trading Commission (''CFTC'') for approval. On April 3, 2003, NQLX submitted the Amendment No. 1 to proposed rule change to the CFTC for approval. Under section 19(b)(7)(B) of the Act,[4] the proposed rule change may take effect upon approval by the CFTC.

**I. Self-Regulatory Organization's Description of the Proposed Rule Change**

NQLX proposed to amend both its initial and maintenance listing standards (NQLX Rules 902 and 903) as they relate to the pricing criteria for securities that underlie security futures products offered by NQLX. Currently NQLX Rule 902(b)(8) requires that he market price per share of any underlying security must be at least $7.50 for the majority of trading days during the three calendar months before listing of the security futures contact, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

In addition to meeting the current listing requirements of NQLX Rule 902(b), NQLX proposes adding a new rule provision, NQLX Rule 902(b)(8)(i), that would allow the listing of a security futures product if the underlying securities are ''covered securities,'' as defined under Section 18(b)(1)(A) of the Securities Act of 1933 (''1933 Act'') (''covered securities''),[5] and have reported at least a $3.00 per share closing price on their primary for the five previous consecutive trading days before the initial listing of the product. For initial listings of security future products with underlying securities that are not covered securities, NQLX Rule 90218(b)(8)(ii) will continue to require those underlying securities to trade at $7.50 or above for the majority of trading days during the three calendar months before listing of the security futures contract.

NQLX also proposes to add NQLX Rule 902(b)(8)(iii) to allow the initial listing of a security futures contract if the underlying security (1) meets the requirements under NQLX Rule 903(c); (2) underlies a security futures contract that already trades on at least one other registered national securities exchange; and (3) underlies a security futures contract that has had average daily trading volume of at least 5,000 contracts during the three calendar months immediately before the date of listing. NQLX represents that this proposed change is consistent with similar initial listing standards in place at several options exchanges.[6]

As to maintenance listing standards, in addition to meeting the current listing requirements of NQLX rule 903(c), NQLX proposes to amend NQLX Rule 903(c)(6) to allow the listing of a new delivery months for a security futures product if the underlying securities have reported at least a $3.00 per share closing price on their primary market on the trading day immediately before the listings of the new delivery month.[7] NQLX represents that this

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] On April 4, 2003, NQLX filed Form 19b–7, which completely replaces the initial filing in its entirety. Telephone conversation between Kathleen Hamm, Senior Vice President, Regulation and Compliance, NQLX, and Christopher Solgan, Attorney, Division of Market Regulation (''Division''), Commission, on April 8, 2003.

[4] 15 U.S.C. 78s(b)(7)(B).

[5] Section 18(b0(11)(A) of the 1933 Act provides that, ''[a] security is a covered security if such security is—listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed, or authorized for listing, on the National Market system of the Nasdaq Stock Market (or any successor to such entities). * * *'' 15 U.S.C. 77r(b)(1)(A). The term ''covered security'' would not include those securities defined under section 18(b)(1)(B) of the 1933 Act. 15 U.S.C. 77r(b)(1)(B).

[6] *See, e.g.,* Commentary .01(4) to American Stock Exchange LLC (''Amex'') Rule 916; International Securities Exchange, Inc. (''ISE'') Rule 502(b)(5)(ii); Pacific Exchange, Inc. (''PCX'') Rule 3.6(a)(4).

[7] Currently, NQLX does not anticipate adding additional series intra-day. However, if NQLX ever

Continued