

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53976; File No. SR-CBOE-2006-39]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Regarding the e-DPM Membership Ownership Requirement

June 12, 2006.

On April 20, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to clarify the membership ownership requirements for e-DPMs set forth in CBOE Rule 8.92(d). Specifically, the proposal clarifies that a parent company of an e-DPM entity may own or lease the required memberships on behalf of the e-DPM entity provided such memberships are dedicated solely to the e-DPM organization's e-DPM activity. The proposed rule change was published for comment in the **Federal Register** on May 12, 2006.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission specifically finds that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ in that it is designed to promote just and equitable principles of

trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposal should provide more flexibility to e-DPM organizations in satisfying the membership ownership requirements of CBOE Rule 8.92.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2006-39) is approved.

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

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53972; File No. SR-NASD-2006-069]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Relating To Manning Price-Improvement Standards for Decimalized Securities

June 12, 2006.

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 1, 2006, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NASD. NASD has designated the proposal as constituting a "non-controversial" proposed rule change under section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it effective upon filing with the Commission. 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

NASD is proposing to extend through December 31, 2006, the current pilot price-improvement standards for decimalized securities contained in NASD Interpretive Material ("IM") 2110-2—Trading Ahead of Customer Limit Order ("Manning Rule"). There are no proposed changes to rule text.

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

In its filing with the Commission, NASD 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. NASD 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

NASD's Manning Rule requires an NASD member firm to provide a minimum level of price improvement to incoming orders in Nasdaq and exchange-listed securities if the firm chooses to trade as principal with those incoming orders at prices equal to or better than customer limit orders the firm currently holds.⁵ If a firm fails to provide the minimum level of price improvement to the incoming order, the firm must execute its held customer limit orders at the price at which the firm traded for its own account or better. Generally, if a firm fails to provide the requisite amount of price improvement and also fails to execute its held

⁵ The Commission recently approved amendments to the Manning Rule to require members to provide price improvement to customer limit orders in certain circumstances and expand the application of the Manning Rule to exchange-listed securities. See Securities Exchange Act Release No. 52210 (August 4, 2005), 70 FR 46897 (August 11, 2005) (SR-NASD-2004-089). These amendments became effective January 2, 2006. See NASD Notice to Members 05-64.

The Commission also recently approved further amendments to the Manning Rule to codify NASD's existing position that the Manning Rule applies to all members, whether acting as a market maker or not. These amendments became effective April 14, 2006. See Securities Exchange Act Release No. 53653 (April 14, 2006), 71 FR 20429 (April 20, 2006) (SR-NASD-2006-035).

¹¹ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 53771 (May 8, 2006), 71 FR 27757.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

customer limit orders, it is in violation of the Manning Rule.

On April 6, 2001,⁶ the Commission approved, on a pilot basis, price improvement standards for decimalized securities contained in the Manning Rule, which added the following language to IM-2110-2:

For Nasdaq securities authorized for trading in decimals pursuant to the Decimals Implementation Plan For the Equities and Options Markets, the minimum amount of price improvement necessary in order for a market maker to execute an incoming order on a proprietary basis in a security trading in decimals when holding an unexecuted limit order in that same security, and not be required to execute the held limit order, is as follows:

(1) For customer limit orders priced at or inside the best inside market displayed in Nasdaq, the minimum amount of price improvement required is \$0.01; and

(2) For customer limit orders priced outside the best inside market displayed in Nasdaq, the market maker must price improve the incoming order by executing the incoming order at a price at least equal to the next superior minimum quotation increment in Nasdaq (currently \$0.01).⁷

Since approval, these standards continue to operate on a pilot basis that terminates on June 30, 2006.⁸ NASD has determined to seek an extension of its current Manning Rule pilot until December 31, 2006. NASD believes that such an extension provides for an appropriate continuation of the current Manning Rule price improvement standards while the Commission

⁶ See Securities Exchange Act Release No. 44165 (April 6, 2001), 66 FR 19268 (April 13, 2001) (SR-NASD-2001-27).

⁷ Pursuant to the terms of the Decimals Implementation Plan for the Equities and Options Markets, the minimum quotation increment for Nasdaq securities at the outset of decimal pricing is \$0.01. On June 9, 2005, the Commission adopted Rule 612 of Regulation NMS which establishes minimum pricing increments for NMS stocks (e.g., Nasdaq and exchange-listed securities). Rule 612 of Regulation NMS prohibits market participants from displaying, ranking, or accepting quotations, orders, or indications of interest in any NMS stock priced in an increment smaller than \$0.01 if the quotation, order, or indication of interest is priced equal to or greater than \$1.00 per share. If the quotation, order, or indication of interest is priced less than \$1.00 per share, the minimum pricing increment is \$0.0001. See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04). Rule 612 of Regulation NMS became effective on January 31, 2006. See Securities Exchange Act Release No. 52196 (August 2, 2005), 70 FR 45529 (August 8, 2005).

Given the adoption and implementation of Rule 612 of Regulation NMS, Nasdaq, among other market centers, implemented changes to its trading systems to accept, rank, execute and disseminate priced quotations in accordance with Rule 612 of Regulation NMS. Quotations submitted to Nasdaq that are not in compliance with Rule 612 of Regulation NMS are rejected.

⁸ See Securities Exchange Act Release No. 53026 (December 27, 2005), 71 FR 377 (January 4, 2006) (SR-NASD-2005-152).

continues to analyze the issues related to customer limit order protection in a decimalized environment. NASD is not proposing any other changes to the pilot at this time. NASD proposes to make the proposed rule change operative on July 1, 2006.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,⁹ which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will improve treatment of customer limit orders and enhance the integrity of the market.

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

NASD does not believe that the proposed rule change will result in any burden on competition that is 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

Written comments were neither solicited nor received by NASD.

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

Because the foregoing proposed rule change 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 as the Commission may designate if consistent with the protection of investors and the public interest, provided that NASD has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,¹⁰ the proposed rule

⁹ 15 U.S.C. 78o-3(b)(6).

¹⁰ Rule 19b-4(f)(6)(iii) under the Act requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The NASD provided notice to the Commission four business days prior to filing the proposed rule change, and the Commission has determined to waive the five business day pre-filing notice requirement.

change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) 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.¹¹

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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2006-069 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-069. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

¹¹ See 15 U.S.C. 78s(b)(3)(C).

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2006-069 and should be submitted on or before July 10, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53971; File No. SR-NYSEArca-2006-22]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Increasing the Maximum Weighting of Certain Component Stocks in Indexes or Portfolios Underlying Investment Company Units

June 12, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 22, 2006, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by NYSE Arca. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is approving the proposal on an accelerated basis.

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

The Exchange, through its wholly owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), proposes to amend its rules governing NYSE Arca, L.L.C., the equities trading facility of NYSE Arca Equities. The Exchange proposes to amend Commentary .01(a)(3) to NYSE Arca Equities Rule 5.2(j)(3), to increase from 25 percent to 30 percent the maximum weight of the most heavily weighted component stock of an index or portfolio underlying a series of Investment Company Units ("ICUs").

The text of the proposed rule change is available on the NYSE Arca Web site (<http://www.nysearca.com>), at the Commission's Public Reference Room, and the principal office of NYSE Arca.

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

In its filing with the Commission, NYSE Arca 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 III below. NYSE Arca 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

NYSE Arca Equities Rule 5.2(j)(3) provides listing standards for ICUs to permit listing and trading of these securities pursuant to Rule 19b-4(e) under the Exchange Act.³ Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") shall not be deemed a proposed rule change, pursuant to Rule 19b-4(c)(1) under the Exchange Act,⁴ if the Commission has approved, pursuant to section 19(b) of the Exchange Act,⁵ the SRO's trading rules, procedures and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for the product class.⁶ These standards are frequently referred to as "generic" listing standards.

In October of 1999, the Commission approved PCX Equities⁷ Rule 5.2(j)(3), which sets forth the rules related to the listing and trading criteria for ICUs.⁸ In July 2001, the Commission also approved the Pacific Exchange's⁹ generic listing standards for the listing

and trading, or the trading pursuant to unlisted trading privileges, of ICUs under PCX Equities Rule 5.2(j)(3).¹⁰

NYSE Arca Equities Rule 5.2(j)(3) provides that, upon the initial listing of a series of ICUs under Rule 19b-4(e), component stocks that in the aggregate account for at least 90 percent of the weight of the index or portfolio underlying such series must have a minimum market value of at least \$75 million. In addition, the component stocks in the index or portfolio must have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90 percent of the weight of the index or portfolio. These standards assure that the underlying index's or portfolio's component stocks are generally actively traded and with substantial market capitalization.

Currently, Commentary .01(a)(3) to NYSE Arca Equities Rule 5.2(j)(3) also provides that the most heavily weighted component stock in an underlying index or portfolio cannot exceed 25 percent of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65 percent of the weight of the index or portfolio. The Exchange proposes to increase from 25 percent to 30 percent the permissible weight of the most heavily weighted component stock in an underlying index or portfolio.¹¹ The five most heavily weighted stocks would continue to be required to represent no more than 65 percent of the weight of the index or portfolio. The Exchange states that this change will provide additional flexibility to issuers of ICUs to be listed pursuant to Rule 19b-4(e) in developing ICUs based on indexes or portfolios.

The Exchange notes that unit investment trusts and mutual funds are subject to Internal Revenue Code Subchapter M requirements applicable to regulated investment companies. In order to maintain regulated investment company status, these entities would be required to rebalance their portfolios quarterly to avoid any one stock exceeding a 25 percent weighting in the trust's or fund's portfolio.¹²

³ 17 CFR 240.19b-4(e).

⁴ 17 CFR 240.19b-4(c)(1).

⁵ 15 U.S.C. 78s(b).

⁶ See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (File No. S7-13-98).

⁷ PCX Equities, Inc. was the predecessor to NYSE Arca Equities.

⁸ See Securities Exchange Act Release No. 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR-PCX-98-29).

⁹ The Pacific Exchange, Inc. was the predecessor to NYSE Arca.

¹⁰ See Securities Exchange Act Release No. 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR-PCX-2001-14).

¹¹ The New York Stock Exchange LLC ("NYSE") recently proposed a substantially identical revision to its ICU rules. See SR-NYSE-2006-39, available on the NYSE Web site (<http://www.nyse.com>), and *infra* note 18.

¹² According to NYSE Arca, under Subchapter M of the Internal Revenue Code, for a fund to qualify as a regulated investment company, the securities of a single issuer can account for no more than 25

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.