

Closed meetings will be held on Monday, June 12, 2000 at 10:30 a.m. and on Thursday, June 15, 2000 at 11 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9) (A) and (10), permit consideration for the scheduled matters at the closed meetings.

The subject matter of the closed meeting scheduled for Monday, June 12, 2000 will be:

- An administrative proceeding of an enforcement nature.

The subject matter of the closed meeting scheduled for Thursday, June 15, 2000 will be:

- Institution of injunctive actions; and
- Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: the Office of the Secretary at (202) 942-7070.

Dated: June 5, 2000.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 00-14535 Filed 6-5-00; 4:19 pm]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** Published elsewhere in this issue.

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** June 5, 2000.

**CHANGE IN THE MEETING:** Cancellation of Meeting.

The closed meeting scheduled for Thursday, June 15, 2000 at 11 a.m. has been canceled.

Dated: June 6, 2000.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 00-14581 Filed 6-6-00; 11:10 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42862; File No. SR-CBOE-00-10]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Permit the Chairman of the Appropriate Floor Procedure Committee To Exercise the Authority of the Committee To Decrease the Size of Orders Eligible for Entry Into the Retail Automatic Execution System During Unusual Market Conditions

May 30, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 28, 2000, the Chicago Board Options Exchange, Incorporated ("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 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 amend its rules to permit the Chairman of the appropriate Floor Procedure Committee ("FPC"), or the Chairman's designee, to exercise the authority of the Committee to decrease the size of orders eligible for entry into CBOE's Retail Automatic Execution System ("RAES") during unusual market conditions.

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 CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

On December 1, 1998, the Commission approved a CBOE rule change that allowed the Chairman of the appropriate FPC, or the Chairman's designee, to exercise the authority of the FPC to *increase* the size of orders eligible for entry into RAES.<sup>3</sup> This measure, which has been successfully utilized at the Exchange, is exercised when the Chairman, or his/her designee, believes that taking such action could alleviate a potential backlog of unexecuted orders where an option class is experiencing a large influx of orders. It has allowed the Exchange to react more quickly and efficiently to potential backlog situations. However, CBOE rules do not currently allow the Chairman to decrease the contract size limit for orders eligible for entry into RAES (an ability that the FPC maintains pursuant to CBOE Rule 6.8(e)).

The Exchange now proposes to amend its rules to allow the Chairman of the appropriate FPC, or the Chairman's designee, to exercise the authority of the FPC to *decrease* the size of orders eligible for entry into RAES for equity option classes during unusual market conditions.

Exchange Rule 6.8(a)(i) states, "the appropriate Floor Procedure Committee shall determine the size of orders eligible for entry into RAES." Paragraph (e) of CBOE Rule 6.8 states that "[e]ligible orders must be for fifty or fewer contracts on series placed on the system \* \* \*. The appropriate FPC, in its discretion, may determine to restrict the size and kind of eligible orders, including but not limited to, lowering contract limits." The FPCs, particularly the Equity Floor Procedure Committee ("EFPC"), have discovered through experience in overseeing the operation of RAES, that it is sometimes necessary to temporarily reduce the eligible order size levels (which are amounts that the Exchange has been aggressively increasing in recent years) in situations where unusual market conditions exist.

However, the decision to decrease the RAES eligible order size to address these unusual market situations must be made quickly to be effective. Because the EFPC commonly consists of twenty or more members who conduct business in all parts of the floor, it is not practicable to provide notice to all the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 40736 (December 1, 1998), 63 FR 68323 (December 10, 1998) (File No. SR-CBOE-98-37).

members of the Committee and convene a meeting to make these decisions. It is also not practicable to expect these members to monitor the situation when they are trying to conduct a business on the floor that requires their attention. Intra-day meetings are not only impracticable to convene but would distract these members from the conduct of their business on the floor.

Consequently, the EFPC has determined to delegate its authority under CBOE Rule 6.8 to the Chairman of the EFPC, or to the Chairman's designee, to decrease the eligible order size for RAES in unusual market conditions provided that the Chairman or his designee believes the action is warranted and provided the decision is made for no more than one trading day (as is currently the case for the Chairman increasing the order size eligibility for RAES). As proposed, to the extent the conditions exist on the following trading day, the Chairman or his designee must review the situation and make an independent decision to decrease the RAES eligible order size for that subsequent day. Further, any decisions made by the Chairman or his designee to decrease the RAES eligible order size for a particular option class for consecutive days will be reviewed by the FPC at its next regularly scheduled meeting. After reviewing these decisions the FPC can provide guidance to the Chairman or his designee about the use of this authority if they feel it is appropriate.

## 2. Statutory Basis

By allowing the Chairman of the appropriate FPC or his designee to make decisions to decrease the eligible order size for RAES, the Exchange can sustain the operation of RAES during unusual market conditions in an efficient manner. The filing, therefore, is consistent with and furthers the objectives of Section 6(b)(5) of the Act<sup>4</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

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

The 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 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

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 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 Section, 450 Fifth Street NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR-CBOE-00-10 and should be submitted by June 29, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

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

[FR Doc. 00-14405 Filed 6-7-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42869; File No. SR-NASD-00-28]

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Trade-Reporting of Average-Price Trades in Nasdaq-Listed Securities

May 31, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 17, 2000, 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") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On May 17, 2000, Nasdaq submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Nasdaq proposes to require all transaction in Nasdaq-listed securities that are done on a weighted average basis or effected based on other special-pricing formulae, to be reported with a special .W indicator. Proposed deletions are in brackets.

\* \* \* \* \*

## Rule 4632. Transaction Reporting

(a)(1)-(5) No Change.

(6) All members shall report [agency cross] transactions occurring at prices based on average-weighting or other special-pricing formulae to Nasdaq using a special indicator, as designated by the Association and set out in the Symbol Directory.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Nasdaq originally filed the proposal of May 11, 2000, pursuant to Section 19(b)(2) of the Act. 15 U.S.C. 78s(b)(2). On May 17, 2000, Nasdaq submitted a letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Alton Harvey, Division of Market Regulation, Commission, amending the proposal ("Amendment No. 1"). In Amendment No. 1, Nasdaq requested that the Commission consider the proposal under Section 19(b)(3)(A) of the Act. 15 U.S.C. 78s(b)(3)(A). Because Nasdaq amended the proposal to file it under Section 19(b)(3)(A) of the Act, the Commission considers the proposal re-filed as of the date of the amendment. Therefore, the date of the amendment is deemed the date of the filing of the proposal.

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 17 CFR 200.30-3(a)(12).