

available for inspection and copying in the Commission's Public Reference Room in Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-00-07 and should be submitted by July 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43000; File No. SR-CBOE-00-15]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Inc. Relating to a Reduction in the Value of the Nasdaq 100 Stock Index

June 30, 2000.

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 30, 2000, 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 and II below, which Items have been prepared by the CBOE. On June 30, 2000, the CBOE submitted Amendment No. 1 to the proposed rule change.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 trade options on the Nasdaq 100 Index based on reduced-value level equal to one-tenth of its present value by multiplying the divisor used in calculating the Index by a factor of 10. In seeking approval to trade options based upon one-tenth of the value of the Nasdaq 100 Index, the Exchange represents that it is planning to list options on the reduced value Nasdaq 100 Index value at the same time it continues to list and trade options on the full value of the Nasdaq 100 Index. In connection with this change, the Exchange proposes to multiply by a factor of 10 the position and exercise limits for the one-tenth level index. When the Exchange trades full value and reduced value Nasdaq 100 options at the same time, the Exchange will require that the positions in the full value and reduced value contracts be aggregated for the purpose of determining compliance with the position and exercise limits. In addition, the Exchange proposes to amend Exchange Rule 24.9, Interpretation .01 to provide that the reduced-value Nasdaq 100 options will have a strike price interval of no less than \$2.50. The text of the proposed rule change is available at the CBOE and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The CBOE began trading Nasdaq 100 Index ("NDX") options in February 1994.⁴ NDX options are European-style, cash-settled options on the Nasdaq-100

Index. The Nasdaq-100 Index is a modified capitalization-weighted index of 100 of the largest non-financial securities traded on the Nasdaq Stock Market. In recent years, on the strength of a sustained bull market, the value of the NDX has tripled since the mid-1998, such that the value of the Index stood at 4,034.17 as of April 4, 2000. As a result of the significant increase in the value of the underlying index, the premium for NDX options has also increased. The CBOE believes that this has caused NDX options to trade at a level that may be uncomfortably high for retail investors.

As a result, Nasdaq (the reporting authority for the Index) has approved CBOE's request to trade options based on a reduced index level equal to one-tenth of the Nasdaq-100 Index. In seeking approval to trade options based upon one-tenth of the value of the Nasdaq 100 Index, the Exchange represents that it is planning to list options on the reduced value Nasdaq 100 Index value at the same time it continues to list and trade options on the full value of the Nasdaq 100 Index. In addition, the trading symbol for options on the reduced-value Nasdaq 100 Index will no longer be NDX.

In addition to the strike price being reduced by one-tenth, the CBOE proposes to increase the position and exercise for the reduced value Nasdaq 100 Index by a factor of 10.⁵ The CBOE believes that this increase in the position and exercise limits is justified because the reduction contract size would result in each contract overlying only one-tenth of the value of a current Nasdaq 100 Index contract.

Consequently, the revised position and exercise limits would be equivalent to the current levels in terms of the value of the Index, which the option positions would overlie. Further, when a person trades full value and reduced value Nasdaq 100 options at the same time, the Exchange will require that the positions in the full value and reduced value contracts be aggregated for the purpose of determining compliance with the position and exercise limits.

According to the Exchange, position limits were intended to prevent a particular customer or firm from manipulating the value of an index by limiting the notional value of an index that any particular person or firm could control. The proposed nominal increase (by ten times in the case of one-tenth value options) does not change the notional value that any particular

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On June 30, 2000, the CBOE submitted a letter from Timothy Thompson, Assistant General Counsel, CBOE, to Joe Corcoran, Attorney, Division of Market Regulation, Commission, amending the proposal ("Amendment No. 1"). In Amendment No. 1 the CBOE requested that the Commission review the proposal under Rule 19b-4(f)(6). The CBOE also expressed its intent to list and trade options on the Nasdaq 100 Index at one-tenth its value, even though it initially sought approval to list options on the Nasdaq 100 Index based upon a reduced index level equal to one-tenth and/or one-fortieth of the Nasdaq 100 Index. Moreover, the CBOE clarified that it will also continue to trade the full value Nasdaq 100 Index options. The Commission notes that filings submitted under Section 19(b)(3)(A) of the Act must be complete upon filing. Because CBOE amended this proposal to file it under Section 19(b)(3)(A) of the Act, the date of the amendment is deemed the date of the filing of the proposal.

⁴ See Securities Exchange Act Release No. 33428 (January 5, 1994), 59 FR 1576 (January 11, 1994).

⁵ The Exchange has separately filed for an increase in the position and exercise limits for NDX in SR-CBOE-00-14.

person or firm may control. Based on the current contract notional value of approximately \$400,000 and the 25,000 contract position limit, and particular person or firm could control a portfolio valued roughly at \$10 billion. By reducing the contract size by a factor of 10 of \$40,000 while increasing the position limit to 250,000 contracts would have no effect on the value of the portfolio that could be controlled by a particular person or firm. In addition, the 100 stocks comprising the Nasdaq 100 Index are among the largest and most liquid stocks listed on the Nasdaq National Market System, and are frequently among the daily most active securities. Like other broad-based indexes, the Nasdaq 100 is sufficiently diversified and liquid so as to minimize the possibility of manipulation. Moreover, given that technology has grown to become a major component of the U.S. economy and investment portfolios, the Exchange believes that a position limit increase, if it were proposing one, for options on the Nasdaq 100 Index is justified and consistent with the limits applied to other broad-based products.

The Exchange currently intends to begin trading the reduced value contracts beginning on July 10, 2000. It is possible that the exchange will delay the introduction of the reduced value contracts until some later time depending on whether any business or operational issues arise. In any event, the Exchange will provide adequate advance notice to its member firms so that they may be prepared for the introduction of the reduced value contracts and so that they may in turn provide adequate notice to their customers. The Exchange has a strong interest in publicizing the introduction of the reduced value contracts and will take a number of measures to inform the firms and potential customers including publication of a regulatory circular, marketing brochures and notification through the Exchange's web site.

The Exchange expects that the proposed change will attract additional customer business in Nasdaq 100 Index options in those series in which retail customers are most interested in trading. For example, an April 4040 (at the money) call option series currently trades at approximately \$20,500 per contract. With the index split, the same option series (once adjusted), with all else remaining equal, would trade at approximately \$2,050 per contract. The Exchange believes that the proposed change will permit some investors to trade these options who have otherwise been priced out of the market due to the recent market surge. The Exchange

believes that NDX options provide an important opportunity for investors to hedge and speculate upon the market risk associated with the stocks comprising this broad-based and widely followed index. By reducing the value of the index, such investors will be able to utilize this trading vehicle while extending a smaller outlay of capital. This should attract additional investors, and, in turn, create a more active and liquid trading environment.

The Exchange believes that reducing the value of the index does not raise manipulation concerns and will not cause adverse market impact, because the Exchange will continue to employ the same surveillance procedures and has proposed an orderly procedure to achieve the index split, including adequate prior notice to market participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5)⁶ of the Act, in that it is designed to perfect the mechanisms of a free and open market 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.

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸ Although Rule 19b-4(f)(6) requires that an Exchange submit a notice of its intent to file at least five business days prior to the

filing date, the Commission waived this requirement at the CBOE's request.

The Commission also notes that under Rule 19b-4(f)(6)(iii), the proposal does not become operative for 30 days after date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The CBOE requests a waiver of this 30-day period to begin trading the reduced-value options on July 10, 2000. The CBOE believes that acceleration of the operative date of the proposed rule is appropriate because it will allow the Exchange to offer investors a more affordable alternative to hedge their exposure to the Nasdaq 100 Index. According to the Exchange, the Nasdaq 100 Index has been especially volatile in the last few weeks and the acceleration of the proposed change will allow the Exchange to offer this more affordable hedging alternative to a time when it is most needed. In addition, the Exchange notes that the American Stock Exchange has a rule (Commentary .03 to Amex Rule 901C) that allows it to split an index without first submitting a filing. For the reasons discussed above, the Commission finds that the waiver of the 30-day period is consistent with the protection of investors and the public interest.⁹

At any time within 60 days of the filing of the proposed rule change, as amended, 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 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

⁹ The Commission notes that this proposal is similar to another CBOE proposal that the Commission approved in 1993. In the 1993 proposal, the CBOE proposed to trade options on the S&P 500 Index ("SPX") based on reduced-value level equal to one-tenth of its then-present value. In the order approving the proposal, the Commission determined that potential manipulation concerns were minimized by the fact that positions in the reduced value SPX options and full value SPX options would be aggregated for position and exercise limit purposes. See Release No. 34-32893 (September 14, 1993), 58 FR 49070 (September 21, 1993) (File No. SR-CBOE-93-12).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

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-00-15 and should be submitted by July 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43005; File No. S7-24-89]

Joint Industry Plan; Solicitation of Comments and Order Approving Request To Extend Temporary Effectiveness of Reporting Plan for Nasdaq/National Market Securities Trade on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., and the Boston, Chicago, Philadelphia and Cincinnati Stock Exchanges

June 30, 2000.

I. Introduction

On June 27, 2000, the National Association of Securities Dealers, Inc. ("NASD"), on behalf of itself and the Boston Stock Exchange, Inc. ("BSE"), the Chicago Stock Exchange, Inc. ("CHX"), the Cincinnati Stock Exchange ("CSE") and the Philadelphia Stock Exchange, Inc. ("Phlx") submitted to the Securities and Exchange Commission ("Commission" or "SEC") a proposal to extend the operation of a joint transaction reporting plan ("Plan")¹ for

Nasdaq/National Market ("Nasdaq/NM") (previously referred to as Nasdaq/NMS) securities traded on an exchange on an unlisted or listed basis.² The proposal would extend the effectiveness of the Plan, as amended by Amendment No. 10, through March 31, 2001.³ The Commission also is extending certain exemptive relief as described below. The June 2000 Extension Request also request that the Commission approve the Plan, as amended, on a permanent basis on or before March 31, 2001. During the extension of the Plan, the Commission will consider whether to approve the proposed Plan, as amended, on a permanent basis.

II. Background

The Plan governs the collection, consolidation and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange pursuant to a grant of UTP.⁴ The Commission approved trading pursuant to the Plan on a one-year pilot basis, with the pilot period to commence when transaction reporting pursuant to the Plan commenced. The Commission originally approved the Plan on June 26, 1990.⁵ Accordingly, the pilot period commenced on July 12, 1993 and was scheduled to expire on July 12, 1994.⁶ The Plan has since been in operation on an extended pilot basis.⁷

"limited participant" and reports quotation information and transaction reports only in Nasdaq/NM securities listed on the BSE. Originally, the American Stock Exchange Inc. ("Amex") was a Participant but withdrew its participation from the Plan in August 1994.

² Section 12 of the Act generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges ("UTP") under certain circumstances. For example, Section 12(f), among other things, permits exchanges to trade certain securities that are traded over-the-counter ("OTC/UTP"), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of the Section 12(f) requirement, see November 1995 Exchange Order, *infra* note 7.

³ On December 23, 1999, the Commission approved the addition of CSE as a Participant to the Plan. The Plan was also changed to reflect that the Midwest Stock Exchange is now called the Chicago Stock Exchange. See Securities Exchange Act Release No. 42269 (December 23, 1999), 65 FR 799 (January 6, 2000).

⁴ See Section 12(f)(2) of the Act.

⁵ See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990) ("1990 Plan Approval Order").

⁶ See letter from David R. Rusoff, Foley & Lardner, to Betsy Prout, Division of Market Regulation. ("Division"), dated May 9, 1994.

⁷ See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); Securities Exchange Act Release No. 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); Securities Exchange Act Release No. 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); Securities Exchange Act Release No. 36226 (September 13, 1995), 60 FR

III. Description of the Plan

The Plan provides for the collection from Plan Participants and the consolidation and dissemination to vendors, subscribers and others of quotation and transaction information in "eligible securities."⁸ The Plan contains various provisions concerning its operation, including: Implementation of the Plan; Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information; Reporting Requirements (including hours of operation); Standards and Methods of Ensuring Promptness, Accuracy and Completeness of Transaction Reports; Terms and Conditions of Access, Description of Operation of Facility Contemplated by the Plan; Method and Frequency of Processor Evaluation; Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan; Calculation of the Best Bid and Offer ("BBO"); Dispute Resolution; and Method of Determination and Imposition, and Amount of Fees and Charges.⁹

IV. Exemptive Relief

In conjunction with the Plan, on a temporary basis, the Commission

49029 (September 21, 1995); Securities Exchange Act Release No. 36368 (October 13, 1995); 60 FR 54091 (October 19, 1995); Securities Exchange Act Release No. 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995) ("November 1995 Extension Order"); Securities Exchange Act Release No. 36589 (December 13, 1995), 60 FR 65696 (December 20, 1995); Securities Exchange Act Release No. 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); Securities Exchange Act Release No. 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); Securities Exchange Act Release No. 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); Securities Exchange Act Release No. 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); Securities Exchange Act Release No. 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); Securities Exchange Act Release No. 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); Securities Exchange Act Release No. 38794 (June 30, 1997) 62 FR 36586 (July 8, 1997); Securities Exchange Act Release No. 39505 (December 31, 1997) 63 FR 1515 (January 9, 1998); Securities Exchange Act Release No. 40151 (July 1, 1998) 63 FR 36979 (July 8, 1998); Securities Exchange Act Release No. 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); Securities Exchange Act Release No. 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999); and Securities Exchange Act Release No. 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000).

⁸ The Plan defines "eligible security" as any Nasdaq/NM security as to which unlisted trading privileges have been granted to a national securities exchange pursuant to Section 12(f) of the Act or that is listed on a national securities exchange. On May 12, 1999, the Commission expanded the number of eligible Nasdaq/NM securities that may be traded by the CHX pursuant to the Plan from 500 to 1000. See May 1999 Approval Order, *supra* note 7.

⁹ The full text of the Plan, as well as "Concept Paper" describing the requirements of the Plan, are contained in the original filing which is available for inspection and copying in the Commission's public reference room.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ See Letter from Robert E. Aber, Vice President and General Council, Nasdaq, to Jonathan G. Katz, Secretary, Commission, dated June 27, 2000 ("June 2000 Extension Request"). The June 2000 Extension Request also requests that the Commission continue to provide exemptive relief, previously granted in connection with the Plan on a temporary basis, from Rules 11Ac1-2 and 11Ac3-1 under the Securities Exchange Act of 1934, as amended ("Act"). 15 U.S.C. 78a *et seq.* The signatories to the Plan are the Participants for purposes of this release, however, the BSE joined the Plan as a