

gain the most by the CBOE listing the product. In addition, all DPM applicants for the MNX product submitted their applications with full knowledge that the Exchange intended to impose a fee on the DPM who is selected to trade this product for its proprietary account.⁴

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act⁶ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 either solicited or received.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, and, therefore has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(2) thereunder.⁸ 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.

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, N.W., Washington, D.C. 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 the File No. SR-CBOE-00-33 and should be submitted by September 28, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43221; File No. SR-CBOE-00-39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Amending the Exchange's Fee Schedule

August 29, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 31, 2000, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") 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 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 Exchange proposes to amend its fee schedule to waive all customer fees for option transactions based on the

reduced-value of the Nasdaq-100 Index ("MNXSM").² The text of the proposed rule change may be examined in the places specified in Item IV below.

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. 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, Proposed Rule Change

1. Purpose

On July 10, 2000, the Commission approved the listing and trading by the CBOE of the MNX product.³ The purpose of the proposed rule change is to waive all customer fees relating to public customer MNX options orders. These fee waivers will be in effect beginning with the launch of trading of the MNX product on August 14, 2000.

Specifically, the Exchange proposes to waive the transaction fee, trade match fee, floor brokerage fee and the retail automatic execution system ("RAES") fee for public customer MNX options orders. The Exchange has decided to waive these fees to promote the launch of the MNX product, and may determine to reevaluate the fee waiver at a future time. The Exchange believes these fee waivers will serve to make MNX options competitive with competing products at other exchanges while generating significant savings for its customers.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act⁵ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

² The CBOE started trading the MNX product on August 14, 2000. The reduced-value of the Nasdaq-100 index is equal to one-tenth of the current value of the Nasdaq-100 index. See Securities Exchange Act Release No. 43000 (June 30, 2000), 65 FR 42409 (July 10, 2000) (SR-CBOE-00-15).

³ *Id.*

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁴ The Exchange informed the membership of the anticipated DPM fee in an Information Circular, IC00-63 (June 28, 2000), which solicited DPM applicants for trading the MNX product. Telephone conversation between Jaime Galvin, Counsel, CBOE, and Hong-anh Tran, Attorney, Division of Market Regulation ("Division"), Commission (August 4, 2000).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

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

The Exchange does not believe that the proposed rule change will impose any inappropriate 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.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore has become effective upon filing pursuant to Rule 19(b)(3)(A) of the Act⁶ and rule 19b-4(f)(2) thereunder.⁷ 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.

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 the File No. SR-CBOE-00-39 and should be submitted by September 27, 2000.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43220; File No. SR-NASD-00-36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Options Position Reporting Requirements and the Application of Options Position and Exercise Limits to Trades With Non-Member Brokers and Dealers

August 29, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, notice is hereby given that on June 14, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), 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 NASD Regulation. 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 Regulation is proposing to amend Rule 2860 of the NASD, to: (1) Apply the NASD's options position and exercise limits to members that effect trades for non-member brokers and non-members dealers; (2) require members to report the options positions that they effect for non-member brokers and non-member dealers where such positions meet the reporting thresholds under NASD rules; (3) codify an interpretative position with respect to which firms are required to report standardized options positions under the NASD's options position reporting requirements; and (4) clarify that a member may have its clearing firm report options positions to the NASD.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule is available at the Office of NASD Regulation 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, NASD Regulation 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 Regulation 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 NASD's options position limits, exercise limits, and reporting requirements, Rules 2860(b)(3), 2860(b)(4) and 2860(b)(5), respectively, apply to any account in which a member, or any partner, officer, director or employee of the member has an interest, or for the account of any customer. However, because the NASD's definition of "customer" excludes a broker or dealer, non-member brokers and non-member dealers are currently outside the scope of these rules.³ Thus, conventional options transactions⁴ of a non-member broker or non-member dealer that are effected by an NASD member are not subject to any position and exercise limits or options reporting.⁵ To remedy this gap, NASD Regulation proposes amending its options position and exercise limits and reporting requirements to include the accounts of non-member brokers and non-member dealers.

In addition, NASD Regulation proposes several technical amendments to the options position reporting requirements to take into account staff interpretive positions with respect to reporting standardized and conventional options. Specifically, the

³ Rule 0120(g) states that the term "customer" shall not include a broker or dealer.

⁴ Standardized options transactions of a non-member are subject to position and exercise limits and reporting requirements of the applicable options exchange(s) on which the member of such exchange(s) effects the transaction. A "standardized option" is any options contract issued, or subject to issuance by, the Options Clearing Corporation that is not a FLEX Equity Option.

⁵ A "conventional option" is any option contract not issued, or subject to issuance, by the Options Clearing Corporation. NASD Rule 2860(b)(2)(N).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(2).