

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301 and Executive Order 13231 of October 16, 2001 on Critical Infrastructure Protection.

**PURPOSE(S):**

This system was primarily designed to permit access to Commission facilities by public visitors and representatives from other Federal agencies. It is also used to issue day passes for Commission staff members or contract employees who are not presently in possession of their ID and need to enter the workplace to perform their duties. The system is further used to record and monitor the status of trackable (special handling) mail.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:**

These records and information contained in these records may be disclosed as follows:

(1) To the appropriate Federal, State or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Commission or other appropriate Federal, State or local agency may be aware of an indication of an actual or potential health, safety or national security concern or a violation or potential violation of civil or criminal law or regulation;

(2) To another Federal agency, in connection with a court proceeding when the Government is party to a proceeding before the court or to an adjudicative tribunal when the Government is appearing in a proceeding before that tribunal;

(3) To a Federal, State, or local agency, in response to its requests, in connection with the hiring or retention of an employee, the issuance of a security clearance, or the conducting of a security or background investigation of an individual, to the extent that the information is relevant and necessary to the requesting agency;

(4) To the Office of the Inspector General for investigating allegations of abuse or misconduct, or to perform other functions within the jurisdiction of the Office of the Inspector General; and

(5) To the Commission Security Branch and/or the Office of the Inspector General in routine and ad hoc reports to review visitor and day pass activity and to assess compliance with established security procedures and policies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Records are maintained in a computerized database and on paper. Paper documents are kept in filing cabinets in secured facilities.

**RETRIEVABILITY:**

By use of a database, records may be retrieved by the individual's name, date of visit and/or badge number (as printed in the form of a bar code on the badge).

**SAFEGUARDS:**

Records are safeguarded by restricted computer passwords, locked file cabinets, and safes.

**RETENTION AND DISPOSAL:**

Records are maintained in a computerized database and on paper. Printed badges, and returned passes (and corresponding electronic records) are destroyed three months after expiration, revocation, or return to issuing office, as provided in the National Archives and Records Administration's General Records Schedule No. 11, Item 4.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief of Security Branch, Office of Administrative Services, Security Branch, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1627.

**NOTIFICATION PROCEDURE:**

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, U.S. Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-7, Alexandria, VA 22312-2413.

**RECORD ACCESS PROCEDURES:**

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of this record may contact the Privacy Act Officer, U.S. Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-7, Alexandria, VA 22312-2413.

**CONTESTING RECORDS PROCEDURES:**

See record access procedures above.

**RECORD SOURCE CATEGORIES:**

Information is provided by the visitor seeking access to Commission facilities to meet with Commission employees or contractors, by Commission employees who pre-register visitors, and by Commission employees or badged contractors who do not have their ID

and yet seek access to their workplace for official business. Additionally, information is provided by individuals sending trackable (special handling) mail. Information is further provided by carriers and/or agents that deliver such mail. Persons who decline to provide the requested information will be denied access.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Date: January 18, 2006.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

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**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-53135; File No. SR-CBOE-2005-83]**

**Self-Regulatory Organizations;  
Chicago Board Options Exchange,  
Incorporated; Order Approving  
Proposed Rule Change Relating to the  
SizeQuote Mechanism**

January 17, 2006.

On October 11, 2005, 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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to modify its pilot SizeQuote Mechanism for the execution of large-sized orders in open outcry.<sup>3</sup> The proposed rule change was published for comment in the

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

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

<sup>3</sup> CBOE Rule 6.74(f), which sets forth the rules and procedures for use of the SizeQuote Mechanism, was approved by the Commission in February 2005 for adoption on a pilot basis. See Securities Exchange Act Release No. 51205 (February 15, 2005), 70 FR 8647 (February 22, 2005).

In brief, a floor broker seeking to use the SizeQuote Mechanism to facilitate a customer's large-sized order ("SizeQuote Order") must request a "SizeQuote" from in-crowd market participants ("ICMPs"), who may respond with indications of the price and size at which they would be willing to trade with the order. ICMPs who respond at the best price have priority to trade with the order at that best price and at one trading increment better (the "improved best price"). If the ICMPs do not execute the entire SizeQuote Order, the floor broker must be prepared to execute the remaining contracts against a facilitation order at the best price or the improved best price, as applicable. However, the floor broker has priority to facilitate the entire SizeQuote Order at a price two trading increments better than the best price provided by the ICMPs. For a more complete description, see Securities Exchange Act Release No. 50967 (January 5, 2005), 70 FR 2197 (January 12, 2005).

**Federal Register** on December 12, 2005.<sup>4</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The proposed rule change would establish that, in addition to a floor broker crossing a SizeQuote Order with a facilitation order in accordance with the SizeQuote Mechanism's procedures, a floor broker also may cross the SizeQuote order with one or more solicited orders or a combination of solicited and facilitation orders.

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 exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.<sup>5</sup> The Commission believes that, by giving floor brokers the alternative of crossing customers' SizeQuote Orders with solicited orders, the proposed rule change is intended to expand the potential benefits of the SizeQuote Mechanism. The Commission notes that the proposal does not alter the procedures a floor broker must follow in executing SizeQuote Orders.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-CBOE-2005-83) is approved until the expiration of the current SizeQuote pilot program on February 15, 2006.<sup>7</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53111; File No. SR-NASD-2006-002]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Related to Non-NASD Member Broker-Dealer Access to Nasdaq's Brut Facility

January 12, 2006.

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 January 3, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. On January 12, 2006, Nasdaq submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> Nasdaq has filed the proposal pursuant to section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to 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

Nasdaq proposes to continue to provide, through February 8, 2006, broker-dealers that are not members of the NASD access to Nasdaq's Brut facility. Nasdaq states that it would implement the proposed rule change, as amended, immediately. Nasdaq has designated this proposal as non-controversial and has requested that the Commission waive the five-day pre-filing requirement and the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>6</sup>

The text of the proposed rule change, as amended, is below. Proposed new language is *italicized*; proposed deletions are in [brackets].

\* \* \* \* \*

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

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

<sup>3</sup> Amendment No. 1 made technical changes to the proposed rule change.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> 17 CFR 240.19b-4(f)(6)(iii).

#### 4901. Definitions

(a) through (h) No Change.

(i) The term "Participant" shall mean an NASD member that fulfills the obligations contained in Rule 4902 regarding participation in the System. Until [December 31, 2005,] *February 8, 2006*, the term "Participant" shall also include non-NASD [members] *broker/dealers* that desire to use the System and otherwise meet all other requirements for System participation.

(j) through (w) No Change.

\* \* \* \* \*

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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

Under current NASD Rule 4901(i), entities that are not members of the NASD may use the Brut system until December 31, 2005. Nasdaq proposes to amend this provision so as to allow non-NASD member broker-dealers to use the Brut system through February 8, 2006.<sup>7</sup> Nasdaq notes that the continued provision of such access impacts seven current Brut broker-dealer users (four active and three inactive), which Nasdaq believes is similar to access already being provided by the Arca Trading subsidiary of the Archipelago Exchange.<sup>8</sup> Nasdaq commits that Brut will not accept any new broker-dealer subscribers to its system that are non-NASD members during the extended

<sup>7</sup> Nasdaq states that non-NASD member entities that are not broker-dealers will not be able to use the Brut system beyond December 31, 2005. Nasdaq states that the February 8, 2006 date was selected to coincide with the current deadline for non-NASD member broker-dealers to leave Nasdaq's INET Facility. See Securities Exchange Act Release No. 52902 (December 7, 2005); 70 FR 73810 (December 13, 2005) (SR-NASD-2005-128). Nasdaq states that the INET Facility is expected to be merged into the Brut broker-dealer in the near future.

<sup>8</sup> See Securities Exchange Act Release No. 52497 (September 22, 2005); 70 FR 56949 (September 29, 2005) (SR-PCX-2005-90).

<sup>4</sup> See Securities Exchange Act Release No. 52888 (December 5, 2005), 70 FR 73492.

<sup>5</sup> 15 U.S.C. 78f(b)(5). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> The Commission notes that the current SizeQuote pilot program expires on February 15, 2006. The Exchange has indicated to Commission staff its intent to propose an extension of the pilot program, as amended by the instant proposal, for an additional year. Telephone Conversation between Jennifer Lamie, Managing Senior Attorney, CBOE and Ira Brandriss, Special Counsel, Division of Market Regulation, Commission on January 13, 2006.

<sup>8</sup> 17 CFR 200.30-3(a)(12).