

Conclusion

For the reasons summarized above, Applicants assert that the requested order meets the standards set forth in section 26(b) of the 1940 Act, and should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43969; File No. SR-CBOE-01-02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Amend Its Rules To Allow for \$0.50 Strike Price Intervals for Options Based on Certain Index Portfolio Shares

February 15, 2001.

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 January 31, 2001, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("SEC" or "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 allow for \$0.50 strike price intervals for options based on certain Index Portfolio Shares ("IPs").

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

The Exchange is proposing to establish \$0.50 strike price intervals for options based on certain IPSs. More specifically, the Exchange intends to list options on the iShares S&P 100 Index Fund (ticker symbol "OEF"), an IPS which currently trades on the Exchange. OEF is an exchange-traded fund that represents ownership in an open-end management company established to hold a portfolio of stocks replicating the S&P Index ("Index" or "S&P 100"). It holds substantially all of the securities of the Index in approximately the same proportions as reflected in the Index.

The Exchange will list options on OEF pursuant to the criteria set forth in *Interpretations and Policies*.06 under CBOE Rule 5.3.³ However, the Exchange believes that it is appropriate to amend CBOE Rule 5.5, by adding *Interpretations and Policies*.06, to provide that options on OEF be set to \$0.50 or greater strike price intervals. These ½ point increments would correspond favorably to the 5-point increments in certain broad-based index options traded on the Exchange, such as the S&P 100 ("OEX") and S&P 500 ("SPX"), because the size of the OEF-based contract will be approximately one-tenth of the size of the option contracts on the OEX. Accordingly, the Exchange believes that to effectively compliment existing CBOE products and to help ensure efficient trading of OEF options, adopting \$0.50 strike price intervals for OEF options is necessary.

The Exchange recognizes that adding series of options for trading under the proposed rule change may result in a slight increase in message traffic; however, the Exchange represents that it has the necessary systems capacity to support any additional series of options that may be added under the proposed rule.

³ CBOE Rule 5.3 describes the criteria for underlying securities. Specifically, *Interpretations and Policies*.06 under CBOE Rule 5.3 indicates which securities are deemed appropriate for options trading.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act⁵ in particular, in that it will permit trading in options based on OEF pursuant to strike intervals designed to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional CBOE product.

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 either 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 change: (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 from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)⁶ of the Act and Rule 19b-4(f)(6)⁷ thereunder.⁸

A proposed rule change filed under Rule 19b-4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange seeks to have the proposed rule change become operative on January 31, 2001, to allow

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ Under Rule 19b-4(f)(6)(iii), the Exchange must give 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 the rule change, or such shorter time as designated by the Commission. As required, the Exchange has provided the Commission with written notice of its intent to file the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

it to implement these \$0.50 strike price intervals immediately.

The Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately as of January 31, 2001.⁹ 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 File No. SR-CBOE-01-02 and should be submitted by March 16, 2001.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43968; File No. SR-NASD-01-05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 by the National Association of Securities Dealers, Inc. Relating to Access to, and Fees Assessed for, the Automated Confirmation and Transaction Service

February 15, 2001.

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 January 12, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. On February 8, 2001, Nasdaq amended the proposal.³ On February 13, 2001, Nasdaq again amended the proposal.⁴ Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,⁵ and Rule 19b-4(f)(6) thereunder,⁶ 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 amend NASD Rule 7010(g) to create "Nasdaq ACT," an internet-based means for member firms to report trades to the Automated Confirmation and Transaction ("ACT") Service. Nasdaq also proposes to establish fees to be assessed for the use of Nasdaq ACT. The text of the proposed rule change is below. Proposed new language is in italics. Proposed deletions are in brackets.

Rule 7010 System Services

(a)-(f) No Change.

(g) Confirmation Transaction Service (ACT):

Transaction Related Charges:

Comparison	\$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares)
Automated Give-Up	\$0.01/side per 100 shares (minimum 400 shares; maximum 7,500 shares)
Late Report—T+N	\$0.288/side
Browse/query	\$0.288/query ¹
Terminal fee	\$57.00/month (ACT only terminals)
CTCI fee	\$575.00/month
Nasdaq ACT	\$300/month (full functionality) or \$150/month (up to an average of twenty transactions per day each month) ²
Service desk	\$57.00/month ^{[2] 3}
Trade Reporting	\$0.029/side (applicable only to reportable transaction not subject to trade comparison through ACT) ^{[3] 4}
Risk Management Charges ...	\$0.035/side and \$17.50/month per correspondent firm

Footnotes

⁹ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See February 8, 2001 letter from Jeffrey S. Davis ("Davis"), Assistant General Counsel, Nasdaq, to Katherine A. England ("England"), Assistant Director, Division of Market Regulation ("Division"), SEC ("Amendment No. 1"). In Amendment No. 1, Nasdaq converted the proposal

to a non-controversial filing pursuant to Section 19(b)(3)(A) and Rule 19b-4(f)(6). 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b-4(f)(6). Nasdaq also asked the Commission to waive the 30-day operative waiting period. The Commission considers Nasdaq's original filing as satisfying the 5-day pre-filing notice requirement. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii). For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence as of February 8, 2001, the date of the last substantive amendment to the proposal.

⁴ See February 13, 2001 letter from Davis to England ("Amendment No. 2"). In Amendment No.

2, Nasdaq completely replaced the original proposed rule language with new language, to correct inaccuracies in the text of the proposed rule as it was originally filed. The new proposed rule language in Amendment No. 2 does not change the substance of the proposal, which creates a new method for accessing ACT, and establishes fees for using the new method of access. Telephone conversation between Davis and Joseph Morra, Special Counsel, Division, SEC, February 13, 2001.

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(6).