

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 purpose of the proposed rule change is to amend the Exchange's transaction fee schedule to improve the Exchange's overall competitive position in the marketplace. The transaction fee schedule encompasses the trade recording and comparison charges and the value charges that the Exchange applies to orders that member firms send to the Exchange for execution. The Exchange proposes to amend the schedule by implementing a maximum transaction fee cap of \$.35 per 100 average monthly shares on all floor broker-entered orders executed on the Exchange. The Exchange will apply this cap to floor broker-entered orders prior to applying the existing total volume transaction fee cap of \$.45 per 100 average monthly shares.³

(2) Basis

The basis for the proposed rule change in section 6(b)(5) of the Act,⁴ in that the proposed rule change is designed to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

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

Because the foregoing proposed rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective on filing, for implementation on May 1, 1999, pursuant to section 19(b)(3)(A) of the Act⁵ and subparagraph (f) of 19b-4 thereunder.⁶ At any time within 60 days of the filing of such 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.⁷ 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned Exchange. All submissions should refer to File No. SR-BSE-99-5 and should be submitted by June 15, 1999.

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f).

⁷ In reviewing these rules, the Commission has considered the effect of the proposed rule change on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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. 34-41413; File No. SR-CBOE-99-19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market-Maker Surcharge Fee Schedule

May 17, 1999.

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 April 30, 1999, 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, 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 is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage*.³

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.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999) (order approving CBOE Rule 2.40).

³ To calculate the total transaction fees for all order flow, the Exchange will add the total fees for electronic trades (capped at \$50,000 per month) to the total fees for broker-entered trades (capped at the new rate of \$.35 per 100 average monthly shares). The Exchange then will apply the total volume cap of \$.45 per 100 average monthly shares to that sum. Telephone conversation between Kathy Marshall, Assistant Vice President, Finance, Boston Stock Exchange, and Joshua Kans, Attorney, and Matthew Boesch, Paralegal, Division of Market Regulation, Commission, May 7, 1999.

⁴ 15 U.S.C. 78f(b)(5).

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

1. Purpose

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee approved the following fees for the following option classes:

Option class	Market-maker surcharge (per contract)	Order book official brokerage rate (per contract) ⁴
Barnes and Noble, Inc. (BKS)	\$0.10	\$0.00
Tyco (TYC)	0.02	0.00
Kerr-McGee Corp. (KMG) ..	0.10	0.00
Network Associates Inc. (CQM)	0.05	0.00
Associated First Capital Corp. (AFS)0.04	0.00
BankAmerica Corporation (BAC)	0.02	0.00
BP Amoco (BPA)	0.02	0.00
Sunrise Technology (RNU)	0.03	0.00
Sprint (PCS)	0.15	0.00
Cendant (CD) ...	0.07	0.00
National Discount Broker (NDB)	0.03	0.00
Abercrombie & Fitch (ANF)	0.13	0.00
ENZO Biochem (ENZ)	0.13	0.00
Checkfree (FCQ)	0.15	0.00
Neomagic Corp (GJQ)	0.22	0.00
Intimate Brands (IBI)	0.16	0.00
Maxtor Corp.	0.12	0.00
Amkor (QEL)	0.06	0.00
Ortel Corp. (OQE)	0.09	0.00
Data Dimensions	0.24	0.00

These fees will be effective as of May 1, 1999, and will remain in effect until such time as the Equity Floor Procedure Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

⁴ The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate from \$0.20 in the relevant option classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in Exchange Rule 2.40.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)(40)⁵ of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is 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

Written comments on the proposed rule change were neither solicited nor 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 pursuant to section 19(b)(3)(A)(ii)⁶ and subparagraph (f)(2) of Rule 19b-4 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.⁸

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

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 CFR 240.19b-4(f)(2).

⁸ In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-19 and should be submitted by June 15, 1999.

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. 34-41414; File No. SR-NASD-99-01]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Filing Fees Under the Corporate Financing Rule

May 17, 1999.

On January 11, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its regulatory subsidiary NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² On March 18, 1999, and March 23, 1999, NASD Regulation submitted to the Commission Amendment Nos. 1 and 2, respectively, to the proposed rule change.³ In its filing, NASD Regulation proposed to amend Section 6 of Schedule A to the NASD By-Laws ("Section 6 of Schedule A") and NASD Conduct Rule 2710 (the "Corporate Financing Rule") to simplify the fee structure for public offerings filed under NASD Conduct Rules 2710, 2720, and 2810. Notice of the proposal as contained in Amendment No. 2 was

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NASD Regulation filed Amendment No. 1 which superseded the original rule filing in its entirety. See Letter from Joan C. Conley, Secretary, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated March 17, 1999; Amendment No. 2 also superseded Amendment No. 1 and the original rule filing in its entirety. See Letter from Joan C. Conley, Secretary, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated March 22, 1999.