an order issued in this proceeding cannot be ascertained at this time. The proposed sale of capital securities may in some cases exceed the then authorized capital stock of a Subsidiary. In addition, the Subsidiary may choose to use capital stock with no par value. Also, a Subsidiary may wish to engage in a reverse stock split to reduce franchise taxes or for other corporate purposes. As needed to accommodate these types of proposed transactions and to provide for future issuances of securities, the Applicants request authority to change the terms of any majority-owned Subsidiary's authorized capitalization by an amount deemed appropriate by NFG or other parent company, provided that the consent of all other shareholders has been obtained for the change. A Subsidiary would be able to change the par value, or change between par value and no-par value stock, or change the form of equity from common stock to limited partnership or limited liability company interests or similar instruments, or from these types of instruments to common stock, without additional Commission approval. Any action by Distribution would be subject to and would only be taken upon receipt of necessary approvals from state regulators.

Nonutility Subsidiary Reorganizations

NFG requests approval to consolidate or otherwise reorganize all or any part of its direct and indirect ownership interests in Nonutility Subsidiaries and the activities and functions related to these investments. To effect any consolidation or other reorganization, NFG may wish to either contribute the equity securities of one Nonutility Subsidiary to another Nonutility Subsidiary or sell (or cause a Nonutility Subsidiary to sell) the equity securities or all or part of the assets of one Nonutility Subsidiary to another one. These transactions may also take the form of a Nonutility Subsidiary selling or transferring the equity securities of a subsidiary or all or part of a subsidiary's assets as a dividend to NFG or to another Nonutility Subsidiary, and the acquisition, directly or indirectly, of the equity securities or assets of a subsidiary, either by purchase or by receipt of a dividend. The purchasing company in any transaction structured as an intrasystem sale of equity securities or assets may execute and deliver its promissory note evidencing all or a portion of the consideration given. Each transaction would be carried out in compliance with all applicable U.S. or foreign laws and accounting requirements, and any transaction structured as a sale would be carried out for consideration equal to the book value of the equity securities being sold.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25944 Filed 10–10–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 67 FR 62997, October 9, 2002.

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, October 10, 2002 at 2:30 p.m.

CHANGE IN THE MEETING: Additional item.

The following item has been added to the Closed Meeting scheduled for Thursday, October 10, 2002 at 2:30 p.m.: formal order of investigation.

Commissioner Goldschmid, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: October 9, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26150 Filed 10–9–02; 12:58 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46590; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing of the Agreement Among the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc., Pursuant to Rule 17d–2 Under the Securities Exchange Act of 1934

October 2, 2002.

Pursuant to section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 17d–2 thereunder,[2] notice is hereby given that on August 21, 2002, the American Stock Exchange LLC (''Amex''), the Chicago Board Options Exchange, Inc. (''CBOE''), the International Securities Exchange, Inc. (''ISE''), the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc. (''NYSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (collectively the ''SRO participants'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a plan for the allocation of regulatory responsibilities.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for, and enforce, compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or 19(g)(2)[4] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78s(g)(2).

regulatory duplication.[5] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[6] Rule 17d–1, adopted on April 20, 1976,[7] authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[8] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 8, 1983, the Commission approved the SRO participants' plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[9] The plan reduces regulatory duplication for a large number of firms currently members of two or more of the SRO participants by allocating regulatory responsibility for certain options-related sales practice matters to one of the SRO participants.

Under the plan, the SRO participant responsible for conducting options-related sales practice examinations of a firm, and investigating options-related customer complaints and terminations for cause of associated persons of that firm, is known as the firm's ''Designated Options Examining Authority'' (''DOEA''). Pursuant to the plan, any other SRO of which the firm is a member is relieved of these responsibilities during the period the firm is assigned to a DOEA.

III. Proposed Amendment to the Plan

On August 21, 2002, the SRO participants submitted a proposed amendment to the plan. The primary purpose of the amendment is to allocate regulatory responsibilities among all of the SRO participants.[10] The amended agreement replaces the previous agreement in its entirety.

Agreement among the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange Inc., and the Philadelphia Stock Exchange, Inc., Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.

This Agreement, among the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange Inc., and the Philadelphia Stock Exchange, Inc., hereinafter collectively referred to as the Participants, is made this first day of July, 2002 pursuant to the provisions of Rule 17d–2 under the Securities Exchange Act of 1934 (the ''Act''), which allows for plans among self-regulatory organizations to allocate regulatory responsibility.

Whereas, the Participants are desirous of allocating regulatory responsibilities with respect to their common members (members of two or more of the Participants) for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants (collectively, ''Covered Securities''); and

Whereas, the Participants are desirous of executing a plan for this purpose pursuant to the provisions of Rule 17d–2 and filing such plan with the Securities and Exchange Commission (''SEC'' or the ''Commission'') for its approval;

Now, therefore, in consideration of the mutual covenants contained hereafter, the Participants agree as follows:

I. Except as otherwise provided herein, each Participant shall assume Regulatory Responsibility (as hereinafter defined) for its members that are both (i) members of more than one Participant (hereinafter the ''Common Members'') and (ii) allocated to it in accordance with the terms hereof. For purposes of this Agreement, a Participant shall be considered to be the Designated Options Examining Authority (''DOEA'') of each Common Member allocated to it.

II. As used herein, the term ''Regulatory Responsibility'' shall mean the inspection, examination and enforcement responsibilities relating to compliance by the Common Members and persons associated therewith with the rules of the applicable Participant that are substantially similar to the rules of the other Participants (the ''Common Rules'') and the provisions of the Act and the rules and regulations thereunder, insofar as they apply to the conduct of accounts for Covered Securities. In discharging its Regulatory Responsibility, a DOEA may act directly and perform such responsibilities itself or may make arrangements for the performance of such responsibilities on its behalf by The Options Clearing Corporation, a national securities exchange registered with the SEC under Section 6(a) of the Act or a national securities association registered with the SEC under Section 15A of the Act, but excluding an association registered for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products. Without limiting the foregoing, a non-exhaustive list of the current, Common Rules of each Participant applicable to the conduct of accounts for Covered Securities is attached hereto as Exhibit A. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibility'' does not include, and each of the Participants shall (unless allocated

[5] Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[6] 17 CFR 240.17d–1 and 17 CFR 240.17d–2.

[7] Securities Exchange Act Release No. 12352, 41 FR 18809 (May 3, 1976).

[8] Securities Exchange Act Release No. 12935, 41 FR 49093 (November 8, 1976).

[9] Securities Exchange Act Release No. 20158, 48 FR 41256 (September 14, 1983).

[10] Under the previous agreement, only the Amex, the CBOE, the NASD, and the NYSE were DOEAs.

pursuant to Rule 17d–2 otherwise than under this Agreement) retain full responsibility for:

(a) Surveillance and enforcement with respect to trading activities or practices involving its own marketplace, including without limitation its rules relating to the rights and obligations of specialists and other market makers;

(b) Registration pursuant to its applicable rules of associated persons;

(c) Discharge of its duties and obligations as a Designated Examining Authority pursuant to Rule 17d–1 under the Act;

(d) Evaluation of advertising, responsibility for which shall remain with the Participant to which a Common Member submits same for approval; and

(e) Any rules of a Participant that are not substantially similar to the rules of all of the other Participants.

III. Apparent violations of another Participant's rules discovered by a DOEA, but which rules are not within the scope of the discovering DOEA's Regulatory Responsibility, shall be referred to the relevant Participant for such action as the Participant to which such matter has been referred deems appropriate. Notwithstanding the foregoing, nothing contained herein shall preclude a DOEA in its discretion from requesting that another Participant conduct an enforcement proceeding on a matter for which the requesting DOEA has Regulatory Responsibility. If such other Participant agrees, the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in an investigation or enforcement proceeding.

IV. This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (the ''Council''). The Council shall be composed of one representative designated by each of the Participants. Each Participant shall also designate one or more persons as its alternate representative(s). In the absence of the representative of a Participant, such alternate representative shall have the same powers, duties and responsibilities as the representative. Each Participant may, at any time, by notice to the then Chair of the Council, replace its representative and/or its alternate representative on such Council. A majority of the Council shall constitute a quorum and, unless specifically otherwise required, the affirmative vote of a majority of the Council members present (in person, by telephone or by written consent) shall be necessary to constitute action by the Council. From time to time, the Council shall elect one member of the Council to serve as Chair and another to serve as Vice Chair (to substitute for the Chair in the event of his or her unavailability) for such term as shall be designated and until his or her successor is duly elected, provided that in the event a Participant replaces a representative who is acting as Chair or Vice Chair, such representative shall also assume the position of Chair or Vice Chair, as applicable. All notices and other communications for the Council shall be sent to it in care of the Chair or to each of the representatives.

V. The Council shall determine the times and locations of Council meetings, provided that the Chair, acting alone, may also call a meeting of the Council in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten business days prior thereto. Notwithstanding anything herein to the contrary, representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VI. For the purpose of fulfilling the Participants' DOEA Regulatory Responsibilities, the Council shall allocate Common Members that conduct a public options business among Participants from time to time in such manner as the Council deems appropriate, provided that any such allocation shall be based on the following principals except to the extent all affected Participants consent:

(a) The Council may not allocate a member to a Participant unless the member is a member of that Participant.

(b) To the extent practical, Common Members that conduct a public options business shall be allocated among the Participants of which they are members in such manner as to equalize as nearly as possible the allocation among such Participants. For example, if sixteen Common Members that conduct a public options business are members only of three Participants, such members shall be allocated among such Participants such that no Participant is allocated more than six such members and no Participant is allocated less than five such members.

(c) To the extent practical, the allocation of Common Members shall take into account the amount of customer activity conducted by each member in Covered Securities such that Common Members shall be allocated among the Participants of which they are members in such manner as most evenly divides the Common Members with the largest amount of customer activity among such Participants.

(d) Insofar as practical, it is intended that allocation of Common Members to Participants will be rotated among the applicable Participants and, more specifically, that Common Members shall not be allocated to a Participant as to which such member was allocated within the previous two years.

(e) The Council shall make general reallocations of Common Members from time-to-time as it deems appropriate.

(f) Whenever a Common Member ceases to be a member of its DOEA, the DOEA shall promptly inform the Council, which shall promptly review the matter and allocate the Common Member to another Participant.

(g) A DOEA may request that a Common Member that is allocated to it be reallocated to another Participant by giving thirty days written notice thereof. The Council, in its discretion, may approve such request and reallocate such Common Member to another Participant.

(h) All determinations by the Council with respect to allocations shall be by the affirmative vote of a majority of the Participants that, at the time of such determination, share the applicable Common Member being allocated; a Participant shall not be entitled to vote on any allocation relating to a Common Member unless the Common Member is a member of such Participant.

(i) Allocations for calendar years 2003 and 2004 shall also be subject to the provisions set forth at Appendix A hereof, which provisions shall control in the event of any conflict between them and the provisions set forth above.

VII. Each DOEA shall conduct a routine inspection and examination of each Common Member allocated to it on a cycle not less frequently than determined by the Council. The other Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the applicable DOEA. At each meeting of the Council, each Participant shall be prepared to report on the status of its examination program for the previous quarter and any period prior thereto that has not previously been reported to the Council. In the event a DOEA believes it will not be able to complete the examination cycle for its allocated firms, it will so advise the Council. The Council will undertake to remedy this situation by allocating selected firms and, if necessary, lengthening the cycles for selected firms.

VIII. Each Participant will, upon request, promptly furnish a copy of the report, or applicable portions thereof

relating to Covered Securities, of any examination made pursuant to the provisions of this Agreement to each other Participant of which the Common Member examined is a member.

IX. Each Participant will, routinely, forward to each other Participant of which a Common Member is a member, copies of all communications regarding deficiencies relating to Covered Securities noted in a report of examination conducted by each Participant. If an examination relating to Covered Securities conducted by a Participant reveals no deficiencies, such fact will also, upon request, be communicated to each other Participant of which the Common Member concerned is a member.

X. Each DOEA's Regulatory Responsibility shall include investigations into terminations ''for cause'' of associated persons relating to Covered Securities, unless such termination is related solely to another Participant's market. In the latter instance, that Participant to whose market the termination for cause relates shall discharge Regulatory Responsibility with respect to such termination for cause. In connection with a DOEA's examination, investigation and/or enforcement proceeding regarding a Covered Security-related termination for cause, the other Participants of which the Common Member is a member shall furnish, upon request, copies of all pertinent materials related thereto in their possession. As used in this Section, ''for cause'' shall include, without limitation, terminations characterized on Form U–5 under the label ''Permitted to Resign,'' ''Discharge'' or ''Other.''

XI. Each DOEA shall discharge the Regulatory Responsibility relative to a Covered Securities-related customer complaint or Form U–4 filing, unless such complaint or filing is uniquely related to another Participant's market. In the latter instance, the DOEA shall forward the matter to that Participant to whose market the matter relates, and the latter shall discharge Regulatory Responsibility with respect thereto. If a Participant receives a customer complaint for a Common Member related to a Covered Security for which the Participant is not the DOEA, the Participant shall promptly forward a copy of such complaint to the DOEA.

XII. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, to each Participant entitled to receipt thereof, to the attention of the Participant's representative on the Council at the Participant's then principal office or by e-mail at such address as the representative shall have filed in writing with the Chair.

XIII. The costs incurred by each Participant in discharging its Regulatory Responsibility under this Agreement are not reimbursable. However, any Participants may agree that one or more will compensate the other(s) for costs.

XIV. The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Council.

XV. This Agreement may be amended in writing duly approved by each Participant.

XVI. Any of the Participants may manifest its intention to cancel its participation in this Agreement at any time upon the giving to the Council of written notice thereof at least 90 days prior to such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, those Common Members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above, the petitioning Participant shall retain all its rights, privileges, duties and obligations hereunder.

XVII. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, provided that in the event a notice of cancellation is received from a Participant that, assuming the effectiveness thereof, would result in there being just one remaining member of the Council, notice to the Commission of termination of this Agreement shall be given promptly upon the receipt of such notice of cancellation, which termination shall be effective upon the effectiveness of the cancellation that triggered the notice of termination to the Commission.

Limitation of Liability

No Participant nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the Participants or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

Relief From Responsibility

Pursuant to section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–2 promulgated pursuant thereto, the Participants join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those Participants which are from time to time participants in this Agreement which are not the DOEA as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

In Witness Whereof, the Participants hereto have executed this Agreement as of the date and year first above written.

Appendix A—Allocation Provisions for Calender Years 2003 and 2004

The allocation for calendar year 2003 shall be performed in accordance with the provisions of Section VI, provided that immediately following the initial allocation there shall be a partial reallocation whereby one-half of the Common Members allocated to the International Stock Exchange, Inc., the Pacific Exchange, Inc. and the Philadelphia Stock Exchange, Inc. (such Participants being herein called the ''New DOEAs'') are reallocated among the other Participants that have such member in common. In the event that an initial allocation results in a New DOEA being allocated an odd number of Common Members, for purposes of the reallocation, such number shall be deemed to be increased by one or decreased by one to the extent this will result in the number of Common Members allocated to the remaining DOEAs being more equal. For example, if sixteen Common Members are members of one New DOEA as well as two DOEAs that are not New DOEAs, such members shall be allocated among such DOEAs in the normal manner such that two DOEAs are allocated five such members and the remaining DOEA is allocated six members. Thereafter and assuming only five Common Members were allocated to the New DOEA, three of the members allocated to the New DOEA would be reallocated among the DOEAs that are not New DOEAs such that the New DOEA shall end up with two Common Members allocated to it and the remaining two DOEAs shall both end up with seven Common Members. Again by way of example, if twenty-one Common

Members are members of one New DOEA as well as three DOEAs that are not New DOEAs and the New DOEA received an allocation of five members and two of the remaining DOEAs also received an allocation of five members with the fourth DOEA receiving an allocation of six members, only two of the five Common Members allocated to the New DOEA would be reallocated since such reallocation would result in an equal allocation of six each among the remaining DOEAs. For calendar year 2004, the Common Members reallocated from the New DOEAs to the remaining DOEAs as part of the allocation for calendar year 2003 shall be reallocated back to the New DOEA to which such Common Member was originally allocated.

Exhibit A—Participant Rules Applicable To The Conduct Of Covered Securities:

RULES ENFORCED UNDER 17D–2 AGREEMENT

Opening of Accounts	
AMEX	Rules 411 and 921
CBOE	Rule 9.7
ISE	Rule 608
NASD	Rule 2860(b)(16); IM–2860–2
NYSE	Rules 721 and 405
PHLX	Rule 1024(b)
PCX	Rule 9.2(a) and Rule 9.18(b)
Supervision	
AMEX	Rules 411 and 922
CBOE	Rule 9.8
ISE	Rule 609
NASD	Rule 2860(b)(20)
NYSE	Rules 722, 342 and 343
PHLX	Rule 1025
PCX	Rule 9.2(b)
Suitability	
AMEX	Rule 923
CBOE	Rule 9.9
ISE	Rule 610
NASD	Rule 2860(b)(19)
NYSE	Rule 723
PHLX	Rule 1026
PCX	Rule 9.18(c)

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the amended plan. 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 amended plan that are filed with the Commission, and all written communications relating to the amended plan 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 each of the SRO participants. All submissions should refer to File No. S7–966 and should be submitted by November 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26024 Filed 10–10–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46598; File No. SR–CBOE–2002–56]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Broker-Dealer Access on RAES

October 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') 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 is proposing to allow broker-dealer (''BD'') orders in equity options to be eligible for routing through the Exchange's Retail Automatic Execution System (''RAES''). 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 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 parts 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 currently allows BD orders in certain index option series to receive automatic execution through RAES, subject to the conditions contained in Interpretation and Policy .01 (''I&P .01'') to CBOE Rule 6.8. CBOE hereby proposes to amend I&P .01 to allow BDs to submit orders through RAES in certain equity option classes and/or series.[3] Under the proposal, the Exchange intends to vest the appropriate floor procedure committee (''FPC'') with the authority to determine the classes and/or series in which BDs may submit orders through RAES.[4] As such, the Equity Floor Procedure Committee (''EFPC'') would have responsibility for determining the eligible equity option classes and/or series while the Index FPC (''IFPC'') would have the authority for determining the eligible index option classes and/or series (with the exception of the S&P 500, which falls under the jurisdiction of the SPX FPC). In this regard, the Exchange notes that with respect to equity options, the EFPC could determine to make BD orders eligible for automatic execution in the 100 most active classes, or conversely, the EFPC may allow BD orders in all series in all equity option classes. Pronouncements regarding eligible classes and/or series will be made by Regulatory Circular. The Exchange does not propose any changes to the types of BD orders eligible for automatic execution.[5]

Currently, there are three primary limitations on BD access to RAES: (1) BD orders may not automatically

[11] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. 78(b)(1).

[2] 17 CFR 240.19b–4.

[3] Correspondingly, BDs will be eligible to submit orders in certain index option classes and/or series. Currently, BDs may submit orders in certain index option series.

[4] The current rule allows the Exchange to determine the products in which BD orders may be submitted to RAES.

[5] Currently, the Exchange may allow all categories of BD orders to receive automatic execution or it may allow only those BD orders that are not for the accounts of market makers or specialists to qualify for automatic execution.