

change does not become operative for 30 days after the date of the filing. Trading in the iShares Funds that are the subject of this filing began trading on the Exchange on July 26, 2002, and as noted above, fee suspensions have been previously filed with the Commission pursuant to Rule 19b-4.<sup>9</sup> Extension of the fee suspension for specialist, Registered Trader and broker-dealer orders will result in beneficial cost savings for members and other market participants. In addition, trading in the FITRs ETFs will begin on November 1, 2002 and implementation of the fee suspensions by that date will result in the same beneficial cost savings. The Exchange will reassess the waiver for specialist, Registered Trader and broker-dealer orders beyond November 30, 2002, and will make any required filing pursuant to Rule 19b-4 prior to that date.

The Commission has determined to designate that the proposed rule change become operative on November 1, 2002. The Commission believes that this operative date is consistent with the protection of investors and the public interest because it will permit the fee suspensions to continue for the iShares products on an uninterrupted basis and will provide all market participants with the fee suspension for the new FITR ETFs immediately upon the launch of trading.<sup>10</sup>

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 the 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 Amex. All submissions should refer to File No. SR-Amex-2002-91 and should be submitted by December 4, 2002.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46776; File No. SR-CBOE-2002-50]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Retail Automatic Execution System Log-On Requirements for Market-Makers**

November 6, 2002.

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 August 28, 2002, the Chicago Board Options Exchange ("CBOE" or "Exchange") 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 the CBOE. On October 25, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Exchange Rule 8.16 to eliminate the current Retail Automatic Execution System ("RAES") log on requirements for market-makers. Below is the text of

the proposed rule change. Proposed new text is italicized and proposed deleted text is [bracketed].

\* \* \* \* \*

**RAES Eligibility in Option Classes Other Than DJX, OEX and SPX**

RULE 8.16 (a). No Change

[(b) In option classes designated by the appropriate Market Performance Committee, any Market-Maker who has logged on RAES at any time during an expiration month must log on the RAES system in that option class whenever he is present in that trading crowd until the next expiration.]

[(c)](b) Notwithstanding the limitations in Paragraphs (a)(iii) and (a)(iv) above, if there is inadequate RAES participation in a particular options class, Floor Officials of the appropriate Market Performance Committee may require Market-Makers who are members of the trading crowd, as defined in Rule 8.50 to log on RAES absent reasonable justification or excuse for non-participation or may allow Market-Makers in other classes of options to log on RAES in such classes.

[(d)] (c) Members who fail to abide by the foregoing requirements may be subject to disciplinary action under, among others, Rule 6.20 and Chapter XVII of the Exchange Rules. Such failure may also be the subject of remedial action by the appropriate Market Performance Committee, including but not limited to suspending a member's eligibility for participation on RAES and such other remedies as may be appropriate and allowed under Chapter VIII of the Exchange Rules.

\* \* \* Interpretations and Policies:

- .01 No Change.
- .02 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, 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.

<sup>9</sup> See note *supra*.

<sup>10</sup> For purposes only of accelerating the operative date of 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>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> The Exchange submitted a new Form 19b-4, which replaces and supersedes the original filing in its entirety.

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

1. Purpose

Current CBOE Rule 8.16 outlines the requirements with which a market-maker must comply in order to participate on RAES. Among the requirements, any market-maker who has logged on to RAES at any time during an expiration month must log on to the RAES system in that option class whenever he is present in that trading crowd until the next expiration. After assessing the impact of the RAES log on requirement, the Exchange believes that it no longer serves the purpose for which it was created, *i.e.*, encouraging greater market-maker participation on RAES. Current CBOE Rule 8.16 limits participation in an all-or-none fashion. As a result, the Exchange seeks to remove the log on requirement in its entirety in order to encourage market-makers to log onto RAES to the extent that their business models permit. The Exchange believes this rule change is consistent with the recent changes to Rule 6.87 of the log on requirements of the Pacific Exchange, Inc.<sup>4</sup>

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

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

The CBOE believes that the proposed rule change, as amended, does not 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*

No written comments were 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 does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> 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 Exchange Act.

The CBOE has requested that the Commission waive the 30-day operative delay.<sup>9</sup> The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the notice requirement and acceleration of the operative date will permit the CBOE to implement the proposed rule change without undue delay. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>10</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> The CBOE did not specifically request the Commission to waive the 5-day pre-filing requirement. However, because the original filing was filed more than 5 days before Amendment No. 1, which converted the filing to a non-controversial filing pursuant to Section 19b(3)(A) of the Act and Rule 19b-4(f)(6) thereunder, the Commission finds that the 5-day pre-filing requirement has been satisfied.

<sup>10</sup> 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).

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 also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-2002-50 and should be submitted by December 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46774; File No. SR-NQLX-2002-2]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Nasdaq Liffe Markets, LLC Relating to Listing Standards for Security Futures Products**

November 5, 2002.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and rule 19b-7 under the Act,<sup>2</sup> notice is hereby given that on October 30, 2002, Nasdaq Liffe Markets, LLC ("NQLX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in items I and II below, which items have been prepared by NQLX. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. NQLX also has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"), together with a written certification under section 5c(c) of the Commodity Exchange Act<sup>3</sup> ("CEA") on October 30, 2002.

**I. Self-Regulatory Organization's Description of the Proposed Rules**

NQLX is proposing to adopt rules on listing standards for security futures contracts to comply with the requirements under section 6(h)(3) of

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

<sup>3</sup> 7 U.S.C. 7a-2(c).

<sup>4</sup> Securities Exchange Act Release No. 45894 (May 8, 2002), 67 FR 34745 (May 15, 2002).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).