

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BSE-2004-51 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-BSE-2004-51. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro/shtml>). 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 also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BSE-2004-51 and should be submitted on or before May 19, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51590; File No. SR-CBOE-2005-10]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change To Revise Certain Membership Rules Related to the Testing and Orientation Requirements for Nominees of Member Organizations Approved Solely as Clearing Members

April 21, 2005.

On January 25, 2005, the Chicago Board Options Exchange, Inc. ("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 revise membership rules related to the testing and orientation requirements for certain members and to make other non-substantive changes. The proposed rule change was published for comment in the **Federal Register** on March 17, 2005.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

Pursuant to the proposed rule change, the Exchange will revise Exchange Rule 3.8(a)(iii) to provide that nominees of a member organization approved solely as a Clearing Member are not required to have an authorized trading function. The effect of the rule change is to eliminate the requirement that nominees of Clearing Members attend the Exchange's Member Orientation Program and pass the Exchange's Trading Member Qualification Exam. Clearing Members who wish to engage in trading activities on the Exchange will still be required to designate a nominee who has an authorized trading function. The proposed rule change also makes certain other technical changes to internal Exchange procedures for categorizing its members.

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, the requirements of Section 6(b)(5) of the Act,<sup>4</sup> which requires that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

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

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

<sup>3</sup> See Securities Exchange Act Release No. 51361 (March 11, 2005), 70 FR 13058.

<sup>4</sup> 15 U.S.C. 78f(b)(5).

principles of trade, and in general, to protect investors and the public interest. The Commission finds that removing the requirements that nominees of member organizations approved solely as Clearing Members attend the Exchange's Member Orientation Program and pass the Exchange's Trading Member Qualification Exam is consistent with the requirements of Section 6(b)(5) of the Act because the exemption only applies to the nominees of member organizations that are not engaged with trading with the public.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> that the proposed rule change (SR-CBOE-2005-10) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-2042 Filed 4-27-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51598; File No. SR-NASD-2004-185]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. To Establish a Unitary Fee Schedule for Distribution of Real Time Data Feed Products Containing Nasdaq Market Center Data

April 21, 2005.

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 December 14, 2004, 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, II, and III below, which Items have been prepared by Nasdaq. On February 17, 2005, Nasdaq filed Amendment No. 1 to the original filing.<sup>3</sup> Nasdaq filed Amendment No. 2 on April 14, 2005.<sup>4</sup> The Commission is publishing this notice to solicit

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Amendment No. 1 replaced and superseded the original proposed rule change in its entirety.

<sup>4</sup> Amendment No. 2 replaced and superseded the original proposed rule change, as amended.

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