

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

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

### *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.

### **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 upon filing pursuant to Rule 19(b)(3)(A) of the Act<sup>6</sup> and rule 19b-4(f)(2) thereunder.<sup>7</sup> 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 the File No. SR-CBOE-00-39 and should be submitted by September 27, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-43220; File No. SR-NASD-00-36]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Options Position Reporting Requirements and the Application of Options Position and Exercise Limits to Trades With Non-Member Brokers and Dealers**

August 29, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on June 14, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), 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 NASD Regulation. 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**

NASD Regulation is proposing to amend Rule 2860 of the NASD, to: (1) Apply the NASD's options position and exercise limits to members that effect trades for non-member brokers and non-members dealers; (2) require members to report the options positions that they effect for non-member brokers and non-member dealers where such positions meet the reporting thresholds under NASD rules; (3) codify an interpretative position with respect to which firms are required to report standardized options positions under the NASD's options position reporting requirements; and (4) clarify that a member may have its clearing firm report options positions to the NASD.

<sup>8</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.

The text of the proposed rule is available at the Office of NASD Regulation 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, NASD Regulation 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. NASD Regulation 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 NASD's options position limits, exercise limits, and reporting requirements, Rules 2860(b)(3), 2860(b)(4) and 2860(b)(5), respectively, apply to any account in which a member, or any partner, officer, director or employee of the member has an interest, or for the account of any customer. However, because the NASD's definition of "customer" excludes a broker or dealer, non-member brokers and non-member dealers are currently outside the scope of these rules.<sup>3</sup> Thus, conventional options transactions<sup>4</sup> of a non-member broker or non-member dealer that are effected by an NASD member are not subject to any position and exercise limits or options reporting.<sup>5</sup> To remedy this gap, NASD Regulation proposes amending its options position and exercise limits and reporting requirements to include the accounts of non-member brokers and non-member dealers.

In addition, NASD Regulation proposes several technical amendments to the options position reporting requirements to take into account staff interpretive positions with respect to reporting standardized and conventional options. Specifically, the

<sup>3</sup> Rule 0120(g) states that the term "customer" shall not include a broker or dealer.

<sup>4</sup> Standardized options transactions of a non-member are subject to position and exercise limits and reporting requirements of the applicable options exchange(s) on which the member of such exchange(s) effects the transaction. A "standardized option" is any options contract issued, or subject to issuance by, the Options Clearing Corporation that is not a FLEX Equity Option.

<sup>5</sup> A "conventional option" is any option contract not issued, or subject to issuance, by the Options Clearing Corporation. NASD Rule 2860(b)(2)(N).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

amendments codify the options position reporting requirements as set forth in Notice to Members 94-46, which state that the reporting requirements are "applicable to all standardized options positions established by 'access' firms or their customers and all conventional options positions established by members or their customers." Access firms are defined as NASD members that conduct a business in exchange-traded options but are not themselves members of the options exchange upon which such options are listed and traded. Limiting reporting of standardized options positions under NASD rules to access firms only avoids imposing duplicative reporting requirements on NASD members who are also members of an options exchange, inasmuch as members of an options exchange (*i.e.*, dual members) are required to report positions on standardized options pursuant to the rules of the options exchange(s) of which they are a member.

Finally, NASD Regulation proposes an amendment to clarify that, consistent with current practices, a member may report positions directly to the Association or have such positions reported to the Association by another firm, such as the member's clearing firm. The amendment is accomplished by using the phrase "file or cause to be filed." This amendment would not eliminate the member's ultimate responsibility to ensure that the firm reporting the positions on the member's behalf makes the necessary filings with the NASD.

## 2. Statutory Basis

NASD Regulation represents that the proposed rule change is consistent with the provisions of Section 15A(b)(6)<sup>6</sup> of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD represents that applying options positions and exercise limits and position reporting requirements to transactions effected by members of non-member brokers and non-member dealers preserves the integrity and effectiveness of position and exercise limits. In this manner, the proposed rule change promotes just and equitable principles of trade and protects investors and the public interest.

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

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 NASD. All submissions should refer to SR-NASD-00-36 and should be submitted by September 28, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

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

[FR Doc. 00-22862 Filed 9-6-00; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD08-00-022]

### Lower Mississippi River Waterway Safety Advisory Committee

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

**DATES:** LMRWSAC will meet on Tuesday, October 3, 2000, from 9 a.m. to 12 noon. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before September 25, 2000. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before September 25, 2000.

**ADDRESSES:** LMRWSAC will meet in the basement conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Send written material and requests to make oral presentations to M. M. Ledet, Committee Administrator, c/o Commander, Eighth Coast Guard District (m), 501 Magazine Street, New Orleans, LA 70130-3396. This notice is available on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice, contact M. M. Ledet, Committee Administrator, telephone (504) 589-6271, Fax (504) 589-4999.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

### Agenda of Meeting

*Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC).* The agenda includes the following:

(1) Introduction of committee members.

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

<sup>7</sup> 17 CFR 200.30-3(a)(12).