

Moreover, the Commission notes that the Exchange will distribute a circular to its membership calling attention to the specific risks associated with the ABS Securities.

The Commission notes that the ABS Securities are dependent upon the individual credit of the issuers of the Underlying Securities. To some extent this credit risk is minimized by the Exchange's listing standards in Section 107A of the Company Guide which provide that only issuers satisfying asset and equity requirements may issue securities such as the ABS Securities. In addition, the Exchange's "Other Securities" listing standards further provide that there is no minimum holder requirement if the securities are traded in thousand dollar denominations.²⁶ The Commission notes that the Exchange has represented that the ABS Securities will be listed in \$1000 denominations with its existing debt floor trading rules applying to the trading. In any event, financial information regarding the issuers of the Underlying Securities will be publicly available.²⁷

Due to the pass-through and passive nature of the ABS Securities, the Commission does not object to the Exchange's reliance on the assets and stockholder equity of the Underlying Securities rather than the Trust to meet the requirement in Section 107A of the Company Guide. The Commission notes that the distribution and principal amount/aggregate market value requirements found in Sections 107A(b) and (c), respectively, will otherwise be met by the Trust as issuer of the ABS Securities. Thus, the ABS Securities will conform to the initial listing guidelines under Section 107A and continued listing guidelines under Sections 1001–1003 of the Company Guide. At the time of issuance, the Commission also notes that the ABS Securities will receive an investment grade rating from an NRSRO.

The Commission also believes that the listing and trading of the ABS Securities should not unduly impact the market for the Underlying Securities or raise manipulative concerns. As discussed more fully above, the Exchange represents that, in addition to requiring the issuers of the Underlying Securities meet the Exchange's Section 107A listing requirements (in the case of Treasury securities, the Exchange will rely on the fact that the issuer is the U.S. Government rather than the asset and stockholder tests found in Section

107A), the Underlying Securities will be required to meet or exceed the Exchange's Bond and Debenture Listing Standards pursuant to Section 104 of the Amex's Company Guide, which among other things, requires that underlying debt instrument receive at least an investment grade rating of "B" or equivalent from an NRSRO. Furthermore, at least 75% of the basket is required to contain Underlying Securities from issuances of \$100 million or more. The Amex also represents that the basket of Underlying Securities will not be managed and will remain static over the term of the ABS Securities. In addition, the Amex's debt surveillance procedures will serve to deter as well as detect any potential manipulation.

The Commission notes that the investors may obtain price information on the Underlying Securities through market vendors such as Bloomberg, L.P., or through Web sites such as www.investinbonds.com (for Underlying Corporate Bonds) and <http://publicdebt.treas.gov> and <http://www.govpx.com> (for Treasury Securities and GSE Securities, respectively).

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other equity-linked instruments currently listed and traded on the Amex.²⁸ The Commission believes that the ABS Securities will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the ABS Securities promptly. Additionally, the ABS Securities will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act²⁹ to approve the proposal, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁰ that the proposed rule change (SR-Amex-2003-69) is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.³¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48306; File No. SR-CBOE-2003-24]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated To Interpret Rules Relating to Margin Requirements for Certain Complex Options Spreads on a Pilot Basis

August 8, 2003.

I. Introduction

On June 8, 2003, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to issue a Regulatory Circular to its membership setting forth a clarifying interpretation to CBOE Rule 12.3, Margin Requirements, relating to margin requirements for certain complex option spreads. On June 26, 2003, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for public comment in the **Federal Register** on July 9, 2003.³ The Commission received one comment letter on the proposal.⁴ This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt an interpretation to CBOE Rule 12.3—Margin Requirements—to clarify that margin requirements for certain complex option spreads are provided for under CBOE Rule 12.3. The Exchange proposes to implement this interpretation through a Regulatory Circular that will set forth the margin requirements for such complex spreads. The Exchange believes that the complex

³¹ 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. 48115 (July 1, 2003), 68 FR 41027.

⁴ See letter from Patrick K. Blackburn, ABN-AMRO Incorporated, to Secretary, Commission, dated July 25, 2003 ("ABN-AMRO Letter").

²⁶ See Company Guide Section 107A.

²⁷ The ABS Securities will be registered under Section 12 of the Act.

²⁸ See *supra* note 13.

²⁹ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

³⁰ 15 U.S.C. 78o-3(b)(6) and 78s(b)(2).

spreads in question are simply another way of expressing a collection of two or more basic option spreads (*i.e.*, the butterfly spread, the box spread, and the time spread) already covered under the margin rules. The proposed Regulatory Circular is intended to be a temporary measure and will operate as a pilot for one year from the date of approval of the Regulatory Circular by the Commission.

The Regulatory Circular provides that CBOE members may collect a specific amount of margin for each of the seven identified complex spreads. Specifically, the Regulatory Circular will allow CBOE member organizations to require margin for the identified complex spreads, whether they are established outright or through netting, of not less than the sum of the margin required on each basic spread in its corresponding package.

III. Summary of Comments

As noted above, the Commission received one comment in response to the proposed rule change, which supported the proposal. The commenter believed that the issuance of the Regulatory Circular will resolve ambiguity concerning the appropriate margin treatment for these complex spreads, which will benefit all market participants for whom options are an important part of their investment programs.

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission finds that the proposed Regulatory Circular is consistent with Section 6(b)(5) of the Act,⁷ which requires, among other things, that the Exchange's rules be designed to perfect

the mechanisms of a free and open market and, in general, to protect investors and the public interest. The Commission believes that the Regulatory Circular should clarify the margin requirements for the identified complex spreads.

The Commission notes that this approval will operate as a one-year pilot from the date of approval of the proposed rule change. The Commission expects that during the pilot period, the CBOE will work to submit a proposed rule change to permanently implement the margin requirements for the subject complex spreads.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change, as amended (SR-CBOE-2003-24), is approved until August 7, 2004.

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. 34-48316; File No. SR-NASD-2003-116]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify the Fees Paid by NNMS Order Entry Firms for Certain Order Executions Through Nasdaq's SuperMontage System

August 11, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(“Act”),¹ and Rule 19b-4² thereunder, notice is hereby given that on July 31, 2003, the National Association of Securities Dealers, Inc. (“NASD”), through its subsidiary, The Nasdaq Stock Market, Inc. (“Nasdaq”), submitted to 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. Nasdaq has designated this proposal as one establishing or changing a due, fee or other charge under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder.⁴ 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

Nasdaq proposes to modify the fees paid by NNMS Order Entry Firms (“OE Firms”) for certain order executions through Nasdaq's SuperMontage system. Nasdaq implemented the rule change on August 1, 2003.

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deleted language is bracketed.

* * * * *

7000. CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a)–(h) No change.

(i) Nasdaq National Market Execution System (SuperMontage).

The following charges shall apply to the use of the Nasdaq National Market Execution System (commonly known as SuperMontage) by members:

Order Entry

Non-Directed Orders (excluding Preferred Orders) No charge

Preferred Orders:

Preferred Orders that access a Quote/Order of the member that entered the Preferred Order) No charge

Other Preferred Orders \$0.02 per order entry

Directed Orders \$0.10 per order entry

Order Execution

Non-Directed or Preferred Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the NNMS:

Charge to member entering order \$0.003 per share executed (but no more than \$120 per trade for trades in securities executed at \$1.00 or less per share)

⁵ 15 U.S.C. 78f(b).

⁶ In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).