

of the Act⁸ and rule 19b-4(f)(2) thereunder⁹ because it establishes or changes a due, fee or other charge imposed by the CHX. At any time within 60 days after the filing of the rule change, the Commission may summarily abrogate the 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 purpose 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 at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-2003-03 and should be submitted by April 4, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47470; File No. SR-NASD-2003-31]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend a Pilot With Respect to Amendments to NASD Rule 2520, Margin Requirements for Security Futures Contracts

March 7, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder,² notice is hereby given that on March 5, 2003, the National Association of Securities Dealers, Inc. ("NASD"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I and II below, which items have been prepared by NASD. NASD has designated the proposed rule change as constituting a "non-controversial" rule change under section 19(b)(3)(A)(iii) of the Exchange Act,³ and paragraph (f)(6) of rule 19b-4 under the Act,⁴ which renders the proposal effective upon receipt of this filing by the Commission.⁵ 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 proposed rule change extends until March 20, 2003, the effectiveness of the pilot program ("Pilot") amending NASD rule 2520 ("Margin Requirements") to establish margin requirements for security futures contracts. On January 24, 2003, the Commission approved the amendments to NASD rule 2520 on a pilot basis ending March 6, 2003.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The NASD has requested that the Commission waive both the five-day pre-filing notification requirement and the 30-day operative delay, as specified in rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

⁶ See Securities and Exchange Act Release No. 47244, 68 FR 5317 (February 3, 2003). Specifically, the Pilot allows NASD to facilitate the trading in security futures in securities accounts for those NASD members that are not also members of the NYSE while, at the same time, considering any comments it receives on the amendments to rule 2520 relating to margin requirements for security futures contracts.

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 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 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

On November 15, 2002, NASD filed with the Commission a proposed rule change to amend NASD rule 2520 to establish margin rules for security futures contracts.⁷ On January 15, 2003, NASD filed Amendment No. 2 to the proposed rule change requesting that the Commission approve the proposed rule change on a pilot basis under the same terms as the Commission approval on a pilot basis of the amendments to New York Stock Exchange, Inc. ("NYSE") rule 431.⁸ The SEC approved the proposed rule change, as amended, on a pilot basis until March 6, 2003.⁹

NASD proposes to extend this Pilot from March 6, 2003 until March 20, 2003, to allow NASD additional time to review comments it has received regarding the amendments¹⁰ and also to ensure consistency with the amendments to NYSE rule 431 relating

⁷ See Securities and Exchange Act Release No. 46995 (December 13, 2002), 67 FR 78543 (December 24, 2002) (Notice of Filing of a Proposed Rule Change and Amendment No. 1 to NASD Rule 2520 Relating to Margin Rule Amendments for Security Futures Contracts (SR-NASD-2002-166)). See also letter from Gary L. Goldsholle, Associate General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, ("Division"), Commission, dated November 22, 2002 ("Amendment No. 1"). Amendment No. 1 made non-substantive technical changes to the proposed rule text.

⁸ See letter from Gary L. Goldsholle, Associate General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated January 15, 2003 ("Amendment No. 2"). See also Securities and Exchange Act Release Nos. 46782 (November 7, 2002), 67 FR 69052 (November 14, 2002) (SR-NYSE-2002-53) and 47129 (January 3, 2003), 68 FR 2094 (January 15, 2003) (SR-NYSE-2003-01).

⁹ See *supra* note 6.

¹⁰ The Commission received one comment letter on NASD's proposed rule change. See letter from Edward J. Joyce, President and Chief Operating Officer, Chicago Board Options Exchange, Inc. ("CBOE"), to Jonathan G. Katz, Secretary, Commission, dated December 20, 2002.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ 17 CFR 200.30-3(a)(12).