

broader range of orders to automatically secure disseminated prices. The Exchange therefore believes the proposal is consistent with section 6(b) ⁷ of the Act in general and furthers the objectives of section 6(b)(5) ⁸ in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

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

The CBOE does not believe that the proposed rule change will impose any burden on competition 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

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act ⁹ and rule 19b-4(f)(6) thereunder ¹⁰ because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative until more than 30 days from the date on which it was filed, and the CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date. ¹¹ 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 Act.

The CBOE has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay. The Commission believes that waiving the five-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest in that it will enable the CBOE to guarantee execution of broker-dealer orders at the disseminated price at the full disseminated size (except in the case where CBOE's NBBO quote is represented by an order on the Exchange's limit order book). For this reason, the Commission designates the proposal to be effective and operative immediately. ¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether it 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 File No. SR-CBOE-2003-09, and should be submitted by April 9, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. ¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47483; File No. SR-ISE-2003-04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, Inc. To Amend the Price Criteria for Securities That Underlie Options Traded on the Exchange

March 11, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), ¹ and rule 19b-4 ² thereunder, notice is hereby given that on February 27, 2002, the International Securities Exchange LLC ("ISE" or "Exchange") 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 the Exchange. 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 Exchange proposes to amend its initial listing standards to allow options to be listed on "covered securities" when, among other things, the trading price of the underlying security was at least \$3 for the five business days prior to certification with The Options Clearing Corporation.

The text of the proposed rule change appears below. New text is in *italics*. Deleted text is in *brackets*.

Rule 502. Criteria for Underlying Securities

* * * * *

(b) No change.

(1)-(4) No change.

(5) Either:

(i) *If the underlying security is a "covered security" as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the market price per share of the underlying security has been at least \$3.00 for the previous five consecutive business days preceding the date on which the Exchange submits a certificate to the Clearing Corporation for listing and trading, as measured by the closing price reported in the primary market in which the underlying security is traded; or*

[(i)] (ii) If the underlying security is not a "covered security," [T]he market

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ The Exchange submitted a letter to the Division of Market Regulation ("Division") of the Commission stating its belief that the proposal is consistent with Section 11(a) of the Act, 15 U.S.C. 78k(a), and Rule 11a2-2(T) under the Act, 17 CFR 240.11a2-2(T), and requesting interpretive guidance. See letter to Catherine McGuire, Chief Counsel, Division, Commission, from Stephen M. Youhn, Senior Attorney, CBOE, dated March 12, 2003. In response to the Exchange's request, Commission staff has provided interpretive guidance to the Exchange under Section 11(a) of the Act. See letter from Paula R. Jenson, Deputy Chief Counsel, Division, Commission, to Stephen M. Youhn, CBOE, dated March 12, 2003.

¹² For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.