

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 Act<sup>5</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed Regulatory Circular is consistent with Section 6(b)(5) of the Act,<sup>7</sup> 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,<sup>8</sup> 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.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-20908 Filed 8-14-03; 8:45 am]

**BILLING CODE 8010-01-U**

## 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”),<sup>1</sup> and Rule 19b-4<sup>2</sup> 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 Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder.<sup>4</sup> 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)

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

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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> 15 U.S.C. 78s(b)(3)(A)(ii).

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