

the market. This is consistent with CBOE Rule 24.4.

For purposes of calculating customer margin requirements, the Revised Index, just like the Old Index, is considered a broad-based index for purposes of calculating customer margin requirements.

#### *Surveillance*

The Exchange represents that its surveillance procedures are adequate to monitor the trading in options and LEAPS on the Reduced Value Index. The CBOE does not believe that there are any material differences in the manner in which options on the Reduced Value Index will trade. The Exchange also believes that reducing the value of the Revised Index, as well as the other changes to the index's design and calculation, does not raise any new concerns about manipulation or adverse market impact. As a result, the Exchange believes that the existing surveillance procedures as they applied to the Old Index options should be adequate to detect or deter manipulation.<sup>8</sup> The CBOE also shall provide to members a formal notice which will describe the Revised Index, the Reduced Value Index, the new options root ticker symbol, and the options series to be listed on the Reduced Value Index.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in that it is designed to perfect the mechanisms of a free and open market and to 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.

#### *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**

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 Exchange 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, including whether the proposed rule change, as amended, 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 Exchange. All submissions should refer to file number SR-CBOE-2003-14 and should be submitted by September 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48242; File No. SR-NASD-2003-92]

#### **Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval To a Proposed Rule Change To Adopt NASD Rule 2370 To Govern Certain Lending Arrangements Between Registered Persons and Customers**

August 29, 2003.

#### **I. Introduction**

On June 11, 2003, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt NASD Rule 2370 which would prohibit registered persons from borrowing money from or lending money to a customer unless the member has written procedures allowing such lending arrangements consistent with the rule, the loan falls within one of five prescribed permissible types of lending arrangements, and the member pre-approves the loan in writing. The proposed rule change was published for comment in the **Federal Register** on July 2, 2003.<sup>3</sup> The Commission received two comment letters on the proposal.<sup>4</sup> In addition, NASD submitted a response to comments.<sup>5</sup> This order approves the proposed rule change.

#### **II. Description of the Proposed Rule Change**

Under the proposal, registered persons would be prohibited from borrowing money from or lending money to a customer unless the member has written procedures allowing such lending arrangements consistent with the proposal, the loan falls within one of five permissible types of lending arrangements, and the member pre-

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See Securities Exchange Act Release No. 48093 (June 26, 2003), 68 FR 39608.

<sup>4</sup> See letters to Jonathan G. Katz, Secretary, Commission, from Christine A. Bruenn, President, Maine Securities Administrator, North American Securities Administrators Association, Inc. ("NASAA"), dated July 23, 2003, ("NASAA Letter"); and Michael C. Herndon, Director, Public and Governmental Affairs, Certified Financial Planner Board of Standards, Inc. ("CFP"), dated July 23, 2003 ("CFP Letter").

<sup>5</sup> See letter to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, from Shirley H. Weiss, Associate General Counsel, NASD, dated July 29, 2003 ("NASD Letter").

<sup>8</sup> Telephone conversation between Jim Flynn, Attorney II, CBOE, and Ian K. Patel, Attorney, Division of Market Regulation, Commission on August 26, 2003.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 17 CFR 200.30-3(a)(12).