

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Exchange Rule 11.10A(k), members have received a 50 percent pro rata transaction credit based on *net* Tape B revenue since July 2001.⁴ Prior to that time, the Program was based on *gross* Tape B revenues. In keeping with recent trends in the securities industry, the Exchange is proposing to amend the Program so that the pro rata percentage is once again based on *gross* Tape B revenue, but only in those fiscal quarters where the Exchange's overall revenues (not just Tape B revenues) offset capital expenses and working capital needs. Otherwise, if capital expenses and working capital needs are not met, the calculation based on *net* Tape B revenues will continue to apply.

2. Statutory Basis

The proposed rule change is generally consistent with Section 6(b) of the Act.⁵ The proposed rule also furthers the objectives of Section 6(b)(5) of the Act,⁶ particularly, in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, generally, in that it protects investors and the public interest. The proposal also is consistent with Section 6(b)(4)⁷ in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members by crediting members on a pro rata basis.

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

The CSE does not believe that the proposed rule change will impose any inappropriate 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.

⁴ See Securities Exchange Act Release No. 44579 (July 20, 2001), 66 FR 39068 (July 26, 2001) (SR-CSE-01-03) (among other things, added the word "Net" before the term "Tape 'B' revenue" to CSE Rule 11.10A(k)).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(4).

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 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 CSE. All submissions should refer to file number SR-CSE-2003-01 and should be submitted by February 24, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47244; File No. SR-NASD-2002-166]

Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. With Respect to Margin Rule Amendments for Security Futures Contracts on a Pilot Basis

January 24, 2003.

I. Introduction

On November 15, 2002, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and rule 19b-4 thereunder,² to amend NASD rule 2520 ("Margin Requirements") to establish margin rules for security futures contracts. On November 22, 2002, NASD filed Amendment No. 1 to the proposed rule change.³ The proposal, as amended, was published in the **Federal Register** on December 24, 2002.⁴ The Commission received one comment letter on the proposed rule change.⁵ This commenter also submitted a comment letter on the NYSE's pilot to amend NYSE rule 431 to establish margin requirements for security futures contracts.⁶ On January 15, 2003, NASD filed Amendment No.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Gary L. Goldsholle, Associate General Counsel, NASD to Katherine England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 22, 2002 ("Amendment No. 1"). Amendment No. 1 makes technical changes to the proposed rule text.

⁴ Securities Exchange Act Release No. 46995 (December 13, 2002), 67 FR 78543.

⁵ See letter from Edward J. Joyce, President and Chief Operating Officer, Chicago Board Options Exchange ("CBOE"), to Jonathan G. Katz, Secretary, Commission, dated December 20, 2002.

⁶ See letter from Edward J. Joyce, President and Chief Operating Officer, CBOE, to Jonathan G. Katz, Secretary, Commission, dated December 9, 2002. On November 7, 2002, the Commission approved, on a 60-day pilot basis, a proposed rule change by the New York Stock Exchange, Inc. ("NYSE") amending NYSE rule 431 ("Margin Requirements") to establish margin requirements for security futures contracts. See Securities Exchange Act Release No. 46782 (November 7, 2002), 67 FR 69052 (November 14, 2002) (SR-NYSE-2002-53). In January 2003, the NYSE pilot was extended for an additional 60 days, expiring on March 6, 2003. See Securities Exchange Act Release No. 47129 (January 6, 2002), 68 FR 2094 (January 15, 2003) (SR-NYSE-2003-01).

⁸ 17 CFR 200.30-3(a)(12).