

significantly minimize the potential for manipulation of the Indexes. First, as noted above, the Indexes represent a broad cross-section of domestic highly capitalized U.S. companies. Second, the Commission notes that the Index is a capitalization-weighted index whose value is more difficult to affect than that of a price-weighted index. Third, CBOE has represented that it will notify the Commission when: (1) The number of securities in each index drops by one-third or more; (2) 10% or more of the weight of each index is represented by component securities having a market value of less than \$75 million; (3) less than 80% of the weight of each Index is represented by component securities that are eligible for options trading pursuant to CBOE Rule 5.3; (4) 10% or more of the weight of each Index is represented by component securities trading less than 20,000 shares per day; or (5) the largest component security accounts for more than 15% of the weight of each Index or the largest five components in the aggregate account for more than 50% of the weight of the Index. Fourth, the CBOE has proposed reasonable position and exercise limits for the Index options that will serve to minimize potential manipulation and other market impact concerns. Accordingly, the Commission believes that these factors minimize the potential for manipulation because it would affect significantly the Indexes values. Moreover, the surveillance procedures discussed below should detect as well as deter potential manipulation and other trading abuses.

C. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as the options on the Russell Indexes (including full-value and reduced value Index LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risk of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the index options and index LEAPS will be subject to the same regulatory regime as the other standardized options traded on the CBOE, the Commission believes that adequate safeguards are in place to

ensure the protection of investors in the Russell Indexes options.¹²

D. Surveillance

The Commission generally believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the NYSE, AMEX, and the NASD are all members of ISG. In addition, the CBOE will apply the same surveillance procedures as those used for existing broad-based index options trading on the CBOE. Further, CBOE has represented that it will have complete access to the information regarding the trading activity of the underlying securities.

E. Market Impact

The Commission believes that the listing and trading of options on the Russell Indexes on the Exchange will not adversely impact the underlying securities markets. First, as described above, the Indexes are broad-based and no one stock or industry group dominates any particular Index. Second, as noted above, the stocks contained in the Indexes generally are not inactively traded. Third, existing CBOE stock index options rules and surveillance procedures will apply to Russell Indexes options. Fourth, the Exchange has established reasonable position and exercise limits for the Russell Indexes options that will serve to minimize potential manipulation and market impact concerns. Fifth, the risk to investors of contra-party non-performance will be minimized because the Index options will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the U.S. Lastly, the Commission believes that settling options on the Russell Indexes based on the opening prices of component securities is reasonable and consistent with the Act because it may contribute to the orderly unwinding of

¹² In addition, CBOE has represented that it and OPRA have the necessary systems capacity to support these new series of options that would result from the introduction of Index options and Index LEAPS. See Exhibit D to the proposed rule change (letter from Joe Corrigan, Executive Director, OPRA, to Bill Speth, Director of Research, CBOE, dated March 24, 2003).

Index options positions upon expiration.

The Commission finds good cause for approving the proposed rule change, and Amendment No. 1 thereto, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that the trading of options on the Russell Indexes does not raise novel regulatory issues that were not addressed in previous filings regarding the listing and trading of similar instruments on the CBOE. The Commission further believes that the options on the Russell Indexes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading these index options promptly.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-CBOE-2003-17), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48592; File No. SR-NASD-2003-44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. To Modify the Existing Pilot Program Relating to the Compliance Periods for the Nasdaq Bid Price Criteria

October 3, 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 18, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. Nasdaq submitted

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.