

Additionally, this rule change proposes to delete references to specific reporting authorities for interest rate options in the appropriate Exchange rules. Currently, Interpretation and Policy .01 to CBOE Rule 23.1 identifies the companies that are the official sources for collecting and disseminating the values that underlie an interest rate measure.<sup>4</sup> The Exchange proposes to amend Interpretation and Policy .01 so that specific entities are not enumerated. As such, the Exchange proposes that Interpretation and Policy .01 be changed to reflect that the Exchange may, from time to time, designate a reporting authority to report the values necessary to calculate and disseminate yields for each security or to determine the closing exercise settlement values of expiring interest rate options.

The CBOE believes that this rule change would allow the CBOE to quickly designate a new reporting authority if a situation were to arise in which an approved reporting authority becomes unable to perform the required calculations. The CBOE believes that incidents such as the tragic events of September 11, 2001 or the expansive blackouts of recent weeks illustrate the need for flexibility to take appropriate action in these situations. The Exchange also believes that it may find it operationally beneficial to change a reporting authority for other reasons. The Exchange represents that any reporting authority chosen would need to have demonstrated to the Exchange that it would be operationally capable of performing the required functions. Although the Exchange would have the ability to change the designated reporting authorities for interest rate options under this proposed rule change, the Exchange has represented that it does not intend nor anticipate changing reporting authorities on a regular basis. The Exchange will issue notification of the designation of any new reporting authority for interest rate options in the form of a regulatory circular.

## 2. Statutory Basis

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general, and is in furtherance of the objectives of Section 6(b)(5) of the Act<sup>6</sup> in particular, in that

providing a reliable source for determining the exercise settlement values of interest rate options, including when the reporting authority previously relied upon for this purpose has discontinued reporting such values, will facilitate exercise transactions in these securities and will thereby serve 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 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6)<sup>8</sup> thereunder, 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) by its terms, does not become operative for 30 days after the date of filing. The CBOE provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least 5 business days prior to the filing date.

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.

## **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.

Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-CBOE-2003-48. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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-2003-48 and should be submitted by December 30, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48868; File No. SR-NASD-2003-165]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the National Association of Securities Dealers, Inc. To Establish a New "Discretionary" Order in Nasdaq's SuperMontage System**

December 3, 2003.

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> notice is hereby given that on November 7, 2003, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), 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

<sup>4</sup> Interpretation and Policy .01 to CBOE Rule 23.1 identifies Telerate, Inc. as the designated reporting authority of each interest rate option's "current value" and identifies Gov PX as the designated reporting authority of each interest rate option's "closing exercise settlement value."

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<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.