SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45731; File No. SR–CBOE–2001–62]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Minimum Trading Increments for Spread, Straddle, and Combination Orders in Options on the S&P 500 Index

April 11, 2002.

On December 13, 2001, the Chicago Board Options Exchange, Inc. (''CBOE or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 6.42, *Minimum Increments for Bids and Offers,* to require that bids and offers on spread, straddle, or combination orders in options on the S&P 500 Index (''SPX''), except for box spreads, be expressed in decimal increments no smaller than $0.05. In addition, the proposed rule change adds new interpretation .05 to CBOE to define the term ''box spreads.'' The proposed rule change was published for comment in the **Federal Register** on March 5, 2002.[3]

The Commission finds that the proposed rule change in consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. The Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which, among other things, requires that the Exchange's rules be designed to promote just and equitable principles of trade and facilitate transactions in securities. The commission believes that requiring bids and offers, in spread, straddle, and combination orders in SPX options to be expressed in decimal increments no smaller that $0.05 should increase the ability of SPX options traders to execute these types of orders efficiently by reducing the number of steps necessary to break the orders down into the required contract quantities and prices.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CBOE–2001–62) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 45479 (February 26, 2002), 67 FR 10026.

[4] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45746; File No. SR–NASD–97–44]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 5 and 7 to a Proposed Rule Change by the National Association of Securities Dealers, Inc. Regarding the Eligibility of Claims for Arbitration

April 12, 2002.

On June 24, 1997, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiaries NASD Regulation, Inc. (''NASD Regulation'') and NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''),[1] filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder[3] to amend NASD Rules 10304, 10307, and 10324 of the NASD's Code of Arbitration Procedure (''Code''). Notice of the proposed rule change and Amendment Nos. 1, 2, 3, and 4 thereto was published for comment in the **Federal Register** on January 6, 1998.[4] The NASD filed Amendment Nos. 5, 6, and 7 to the proposal on March 20, 1998; September 30, 1999; and March 15, 2002, respectively.[5] The Commission is publishing this notice of Amendment Nos. 5 and 7 to solicit comments on proposed rule change, as amended, from interested persons. To date, the Commission has received ten comments on the proposal.[6]

I. Text of Proposed Rule Change

The NASD has proposed amendments to the provisions of the Code that govern the eligibility of claims. The proposed rule change, as amended, is set forth below. The base text is taken from the proposed rule change that the Commission published for comment in 1998. Additional language proposed by the NASD in Amendment No. 5 is italicized; language deleted by Amendment No. 5 is in brackets.

10304. Time Limit on Eligibility of Claims for Arbitration; Procedures for Determining Eligibility Under This Rule

This rule describes when a claim must be filed in order to be eligible for arbitration, how and when parties may challenge the eligibility of claims, and the Director's role in determining eligibility.

(a) Claims eligible for arbitration and the Director's role in determining the eligibility of claims.

(1) Any filed claim is eligible for arbitration unless the Director decides it is ineligible. The Director may decide a claim is ineligible only if:

(A) A party that is responding to a claim, the responding party, asks the Director to decide that the claim is ineligible; and

[1] The original rule filing and Amendment Nos. 1 to 6 were filed by the NASD through NASD Regulation, of which the Office of Dispute Resolution (''ODR'') was a part before July 9, 2000. On that date, ODR became a separate, wholly owned subsidiary of the NASD, known as NASD Dispute Resolution, Inc. The NASD filed Amendment No. 7 through NASD Dispute Resolution.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 39487 (December 23, 1997), 63 FR 588.

[5] *See* letter to Katherine A. England, Division of Market Regulation (''Division''), Commission, from John M. Ramsey, Vice President and Deputy General Counsel, NASD Regulation, dated March 18, 1998 (''Amendment No. 5''); letter to Richard C. Strasser, Division, Commission dated September 27, 1999 (''Amendment No. 6''); letter to Florence Harmon, Division, Commission, from Laura Gansler, Counsel, NASD Dispute Resolution, dated March 15, 2002 (''Amendment No. 7''). As explained in Section III *infra,* the Commission is not seeking comment on Amendment No. 6 because it has been superceded by Amendment No. 7.

[6] *See* letter to Margaret McFarland, Deputy Secretary, Commission, from Seth E. Lipner, Deutsch & Lipner, dated December 11, 1997; letter to Commission from Donald G. McGrath, Falk & Siemer, dated December 29, 1997; letter to Jonathan G. Katz, Secretary, Commission, from Scot D. Bernstein, dated January 22, 1998; letter to Jonathan G. Katz, Secretary, Commission, from William J. Fitzpatrick, dated January 23, 1998; letter to Jonathan G. Katz, Secretary, Commission, from Paul Dubow, Chairman, Arbitration Subcommittee, Securities Industry Association (''SIA''), dated January 27, 1997; letter to Jonathan G. Katz, Secretary, Commission, from Morton Levy, dated January 27, 1998; letter from Philip M. Aidikoff, President, Public Investors Arbitration Bar Association, to Linda Feinberg, President, NASD Dispute Resolution, dated March 8, 2002; e-mail to Catherine McGuire and Robert Love, Division, Commission, from C. Thomas Mason, dated March 20, 2002; e-mail to Catherine McGuire, Division, Commission, from Jerry Stanley, dated March 20, 2002; e-mail to Catherine McGuire and Robert Love, Division, Commission, from Joel A. Goodman, *et al.,* dated March 22, 2002.