those existing investments in Energy Assets made by AER through subsidiaries other than Whiting Oil and Gas (approximately $5 million as of June 30, 2003) and new investments in Energy Assets by AER or its subsidiaries (other than WPC and its subsidiaries) after the IPO (or other sale of at least 50% of WPC's or Whiting Oil and Gas's common stock) will be counted against the New AER Investment Limitation. Existing investments in Energy Assets by Whiting Oil and Gas as of the date of the IPO (or other sale of at least 50% of WPC's or Whiting Oil and Gas's common stock) (approximately $379 million as of June 30, 2003) will be counted against the WPC Investment Limitation. Other than the proposed modifications proposed by the Applicants, all other terms, conditions, limitations and restrictions under the Prior Order and Supplemental Order, as applied to Energy Assets, will continue to apply during the Authorization Period.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–27225 Filed 10–28–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48556A; File No. SR–CBOE–2001–04]

Self Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the Chicago Board Options Exchange, Inc., and Order Granting Partial Accelerated Approval on a Pilot Basis of the Proposed Rule Change, as Amended, To Adopt a New Rule Regarding Nullification and Adjustment of Transactions

October 23, 2003.

Correction

In FR Document No. 03–25263, beginning on page 57716 for Monday October 6, 2003, the last full sentence in the text of column 2 on page 57720, which states that the provisions of the proposed rule change are in effect on a pilot basis until December 3, 2003, was incorrectly stated. The sentence should read as follows:

Furthermore, pursuant to Amendment No. 3 to the proposed rule change are in effect on a pilot basis until December 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–27226 Filed 10–28–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48670; File No. SR–NQLX–2003–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Nasdaq Liffe Markets, LLC To Amend Rules 412(g) and 420(b) To Make Its Allocation and Claim Requirements for Block Trades and Exchange for Physical Trades Consistent With the Commodity Futures Trading Commission's Rule Relating to Allocation of Bunched Orders

October 21, 2003.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on July 16, 2003, Nasdaq Liffe Markets, LLC (''NQLX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by the NQLX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. On July 15, 2003, NQLX filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC''), together with a written certification under Section 5c(c) of the Commodity Exchange Act[3] (''CEA'') in which NQLX indicated that the effective date of the proposed rule change would be July 16, 2003.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

NQLX proposes to amend NQLX Rules 419(g) and 420(b) to make NQLX's allocation and claim requirements for block trades and exchange for physical trades consistent with the CFTC's new Rule 1.35(a–1)(5)(iii)(A)[4] requirement that allocations of bunched orders must occur as soon as practicable but ''no later than a time sufficiently before the end of the day the order is executed to ensure that clearing records identify the ultimate customer for each trade.'' Also, in NQLX Rule 419(g)(2)(x), NQLX proposes to remove the term ''and'' as redundant.

The text of the proposed rule change appears below. New text is in *italics.* Deleted text is in [brackets].

* * * * *

Rule 419 Block Trades

(a)–(f) No change.

(g) Information Recording, Submission, and Dissemination

(1) No change.

(2) (i)–(ix) No change.

(x) price or prices of each leg of a Strategy trade (if applicable), [and]

(xi)–(xiv) No change.

(3) NQLX will review the information submitted for the proposed Block Trade by the Member for the Initiator and will post both sides of the Block Trade *in NQLX's Trade Registration System* to the account of[, and send a confirmation to,] the Member for the Initiator if, at the time, the Block Trade appears to have satisfied the requirements of Rule 419.

(4) After [sending the Block Trade confirmation to the Member for the Initiator]*posting both sides of the Block Trade in the Trade Registration System to the account of the Member for the Initiator,* NQLX will immediately disseminate through the ATS the following information concerning the Block Trade:

(i)–(iv) No change.

(5) No change.

(6) As soon as practicable [, but no longer than 10 minutes, after receipt of the Block Trade confirmation from NQLX,] *but no later than sufficiently before the close of the Trade Registration System to allow for the orderly allocation and claim of the Block Trade,* the Member for the Initiator (or its Clearing Member, if applicable) must transfer through the Trade Registration System the applicable portion of the Block Trade to the Member for the Responder (or its Clearing Member, if applicable) and the designated Market Maker, if applicable.

(7) As soon as practicable [,but no longer than 10 minutes,] after the applicable portion of the Block Trade appears on the Trade Registration System pursuant to Rule 419(g)(6) *and before the close of the Trade Registration System,* the Member for the Responder (or its Clearing Member, if applicable) and the designated Market Maker, if applicable, must accept its applicable portion through, and designate the Responder's Customer

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the $800 million authorized in the Prior Order to $1 billion.

[1] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 7 U.S.C. 7a–2(c).

[4] 17 CFR 1.35(a–1)(5)(iii)(A).

account number or identifier in, the Trade Registration System.

Rule 420 Exchange for Physical Trades

(a) No change.

(b) Information Recording, Submission, and Dissemination

(1)–(2) No change.

(3) NQLX will review the information submitted by the Member pursuant to Rule 420(b) for the proposed Exchange for Physical Trade and will post both sides of the Futures Leg *in NQLX's Trade Registration System* to the account of[, and send a confirmation to,] the submitting Member if, at the time, the Exchange for Physical Trade appears to have satisfied the requirements of Rule 420.

(4) After [sending the confirmation for the Exchange for Physical Trade] *posting both sides of the Futures Leg in the Trade Registration System to the account of the submitting Member*, NQLX will disseminate through the ATS the following information:

(i)–(vi) No change.

(5) No change.

(6) As soon as practicable[, but no longer than 10 minutes, after receipt of confirmation for the Exchange for Physical Trade from NQLX,] *but no later than sufficiently before the close of the Trade Registration System to allow for the orderly allocation and claim of the Futures Leg*, the submitting Member (or its Clearing Member, if applicable) must transfer through the Trade Registration System the applicable Futures Contract to the Member for the buyer of the Futures Leg (or its Clearing Member, if applicable).

(7) As soon as practicable[, but no longer than 10 minutes,] after the Futures Leg appears on the Trade Registration System pursuant to Rule 420(b)(6) *and before the close of the Trade Registration System,* the Member for the buyer of the Futures Leg (or its Clearing Member, if applicable) must accept the Futures Leg through, and designate the buyer's Customer account number or identifier in, the Trade Registration System.

* * * * *

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

NQLX has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

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

1. Purpose

NQLX proposes revising NQLX Rules 419(g) and 420(b) to make NQLX's allocation and claim requirements for block trades and exchange for physical trades consistent with the CFTC's new Rule 1.35(a–1)(5)(iii)(A)[5] requirement that allocations of bunched orders must occur as soon as practicable but ''no later than a time sufficiently before the end of the day the order is executed to ensure that clearing records identify the ultimate customer for each trade.''

NQLX believes that amended NQLX Rules 419(g) and 420(b) are consistent with the CFTC's new rule relating to allocation of bunched orders while providing the necessary and appropriate trade audit trail for block and exchange for physical trades, specifically in the areas of trade processing and clearing. NQLX also believes that the proposed rule change is consistent with the requirements, where applicable, under Section 6(h)(3)(J) of the Act[6] and the criteria, where applicable, under Section 2(a)(1)(D)(i)(IX) of the CEA,[7] as modified by joint orders of the Commission and the CFTC.[8]

2. Statutory Basis

NQLX files the proposed rule change pursuant to Section 19(b)(7) of the Act.[9] NQLX believes that the proposed rule change is consistent with the requirements of the Commodity Futures Modernization Act of 2000,[10] including the requirement that NQLX have audit trails necessary and appropriate to facilitate coordinated surveillance to detect, among other things, manipulation.[11] NQLX further believes that its proposed rule change complies with the requirements under Section 6(h)(3) of the Act[12] and the criteria under Section 2(a)(1)(D)(i) of the CEA,[13] as modified by joint orders of the Commission and the CFTC. In addition, NQLX believes that its proposed rule change is consistent with the provisions of Section 6 of the Act,[14] in general, and Section 6(b)(5) of the Act,[15] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities and, in general, to protect investors and the public interest.

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

NQLX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

NQLX neither solicited nor received written comment on 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 on July 16, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, had the authority to summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* 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

[5] 17 CFR 1.35(a–1)(5)(iii)(A).

[6] 15 U.S.C. 78f(h)(3)(J).

[7] 7 U.S.C. 2(a)(1)(D)(i)(IX).

[8] *See* Joint Order Granting the Modification of Listing Standards Requirements (Exchange-Traded Funds, Trust-Issued Receipts and shares of Closed-End Funds), Securities Exchange Act Release No. 46090 (June 19, 2002), 67 FR 42760 (June 25, 2002) *and* Joint Order Granting the Modification of Listing Standards Requirements (American Depository Receipts), Securities Exchange Act Release No. 44725 (August 20, 2001), 67 FR 42760 (June 25, 2002).

[9] 15 U.S.C. 78s(b)(7).

[10] Pub. L. 106–554, 114 Stat. 2763 (2000).

[11] 15 U.S.C. 78f(h)(3)(J).

[12] 15 U.S.C. 78f(h)(3).

[13] 7 U.S.C. 2(a)(1)(D)(i).

[14] 15 U.S.C. 78f.

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

[16] 15 U.S.C. 78s(b)(1).

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 these filings also will be available for inspection and copying at the principal office of NQLX. All submissions should refer to File No. SR–NQLX–2003–06 and should be submitted by November 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–27228 Filed 10–28–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48685; File No. SR–NYSE–2003–32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Listing Fees for Closed-End Funds

October 23, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on October 9, 2003, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') 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 the Exchange. The NYSE has represented that the proposal meets the criteria of paragraph (f)(6) of Rule 19b–4 and, therefore, may take effect immediately. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Section 902.02 of its Listed Company Manual to implement a $75,000 cap on the collective original listing fees payable by any two or more closed-end funds from the same fund family listing at the same time. Below is the text of the proposed rule change. Proposed new language is italicized.

* * * * *

Listed Company Manual

902.00 Listing Fees

* * * * *

902.02 Schedule of Current Listing Fees

* * * * *

A. Original Listing Fee

A special charge of $36,800 in addition to initial fees (described below) is payable in connection with the original listing of a company's stock. In any event, each issuer is subject to a minimum original listing fee of $150,000 inclusive of the special charge referenced in the preceding sentence.

The special charge is also applicable to an application which in the opinion of the Exchange is a ''back-door listing''. *See* Para. 703.08 (F) for definition.

Original listings of closed-end funds are not subject to either the special charge or to the minimum original listing fee. Closed end funds will instead pay an original listing fee based on the number of shares outstanding upon listing. Closed-end funds with up to 10 million shares outstanding will be subject to a $20,000 original listing fee, closed end funds with greater than 10 million shares up to 20 million shares outstanding will be subject to a $30,000 original listing fee, and closed end funds with more than 20 million shares outstanding will be subject to a $40,000 original listing fee. Original listings of closed-end funds are also not subject to the initial fees described below.

If two or more closed-end funds from the same fund family list at the same time, the Exchange will cap the collective original listing fee for those funds at $75,000. A fund family consists of closed end funds with a common investment adviser or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

* * * * *

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

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

In recognition of the increasing cost pressures facing closed-end funds, the Exchange recently reduced the original listing fees applicable to closed-end funds by establishing a three-tiered structure based on the number of shares outstanding.[3] Closed-end funds with up to 10 million shares outstanding are subject to a $20,000 original listing fee; funds with greater than 10 million shares up to 20 million shares outstanding are charged a $30,000 original listing fee; and funds with more than 20 million shares outstanding are subject to a $40,000 original listing fee.

The Exchange states that it inadvertently omitted in SR–NYSE–2003–22 an additional proposal to impose a cap of $75,000 on the collective original listing fees payable by two or more closed-end funds from the same fund family listing at the same time. Accordingly, the Exchange proposes that there be a cap of $75,000 on the collective original listing fees payable by a group of two or more closed-end funds from the same fund family listing at the same time. A fund family consists of closed-end funds with a common investment adviser or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940.[4] The Exchange clarifies that the $75,000 cap is available regardless of whether the funds are transferring from another market or making an initial issuance of shares. In fact, if some of the funds listing at the same time are transferring to the Exchange, and others are conducting an initial public offering, the funds would still be eligible for the collective $75,000 cap.

2. Statutory Basis

The NYSE believes that the basis for the proposed rule change is Section 6(b)(4) of the Act,[5] which requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its

[17] 17 CFR 200.30–3(a)(75).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 48360 (August 18, 2003), 68 FR 51045 (August 25, 2003) (SR–NYSE–2003–22).

[4] 15 U.S.C. 80a–2(a)(3).

[5] 15 U.S.C. 78f(b)(4).