

scheme, including the proposed rule change requirements of Section 19(b).⁴³ Fair competition will be maintained in the market to provide enhanced software products to broker-dealers. Under these circumstances, the Commission believes at this point that competitive forces can be relied upon to produce software products at fair prices that meet the needs of broker-dealers. In sum, the Commission believes that FSI will neither be unnecessarily hampered in its competition to provide software services to broker-dealers nor given an unfair competitive advantage because of its ownership by Nasdaq.

IV. Conclusion

It Is Therefore Ordered, pursuant to section 36(a)(1) of the Exchange Act,⁴⁴ that the NASD's application for a conditional exemption (Form Type 34-36 MR; File No. 79-9) is approved.

By the Commission.

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44209; File No. 265-22]

Advisory Committee on Market Information

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange Commission Advisory Committee on Market Information.

SUMMARY: The fifth meeting of the Securities and Exchange Commission Advisory Committee on Market Information ("Committee") will be held on May 14, 2001, in the William O. Douglas Room, at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 9 a.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265-22. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

FOR FURTHER INFORMATION CONTACT: Anitra Cassas, Special Counsel, Division of Market Regulation, at 202-942-0089; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1001.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, and the regulations thereunder, the Designated Federal Official of the Committee, David S. Shillman, has ordered publication of this notice that the Committee will conduct a meeting on May 14, 2001, in the William O. Douglas Room at the Commission's main offices, 450 Fifth Street, NW., Washington, DC beginning at 9 a.m. The meeting will be open to the public. This will be the fifth meeting of the Committee. The purpose of this meeting will be to discuss alternative models for the provision of market data, and other issues relating to the public availability of market information in the equities and options markets.

Dated: April 20, 2001.

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44197; File No. SR-CBOE-00-49]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Change Relating to RAES Eligibility Requirements for SPX Options

April 18, 2001.

I. Introduction

On September 20, 2000, 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 proposal to amend CBOE Rule 24.16, which governs the eligibility of Market-Makers to participate on the Exchange's Retail Automatic Execution System ("RAES") in options on the Standard & Poor's 500 Index ("SPX").

The proposed rule change was published for comment in the **Federal Register** on December 14, 2000.³ No comments were received on the proposal. This order approves the proposed rule change.

The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in *brackets*.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 43677 (December 5, 2000), 65 FR 78230.

Rule 24.16

(a) Individual Members. Any individual Exchange member who has registered as a Market-Maker, who has signed the RAES Participation Agreement applicable to individuals, and who has completed the RAES instructional program is eligible to log onto RAES in SPX, so long as the requirements set forth in paragraph (iv) below are met:

* * * * *

(iv) RAES participation in SPX is limited to SPX Market-Makers. To qualify, a Market-Maker must: (A) be approved under Exchange rules as a Market-Maker with a letter of guarantee, *and* (b) maintain his principal business on the CBOE as a Market-Maker[, (C) execute at least fifty percent of his Market-Maker contracts for the preceding calendar month in SPX and (D) execute at least seventy-five percent of his Market-Maker trades for the preceding calendar month in SPX in person. In making these calculations, RAES trades will not be considered.]

* * * * *

(d) Member Organizations with Multiple Nominees

(i) A member organization with multiple Market-Maker/nominees on the floor may arrange to have the RAES trades of all its nominees assigned to a single Market-Maker account, provided that the firm's participating nominees have first executed the RAES Participation Agreement applicable to firms and the manager of the multiple nominee account has satisfactorily completed the RAES instructional program. Thereafter, each of the participating nominees will be able to trade through RAES only in the manner described below, and not as a member of a joint account or as an individual. Each eligible nominee must meet the SPX Market-Maker [obligations] *requirements* set forth in paragraph [(c)(i)(A)-(D)][a](iv) *above*. *Members of a multiple nominee RAES account may only participate in that one account and may not participate directly or indirectly in any other RAES account, nor may a member organization participate directly or indirectly in SPX on RAES in more than one account.*

* * * * *

(e) Authority to Disapprove

(i) No person or entity may participate directly or indirectly in RAES, or share in the profits, directly or indirectly, with more than RAES group[. which may not exceed the maximum number of RAES participants set by the appropriate MPC from time to time. In no event may the appropriate MPC set a maximum number higher than 33 1/3% of the average number of RAES participants for the prior quarter. The appropriate MPC will give groups one month's notice if a reduction in group size becomes necessary due to application of this size limit. The appropriate MPC reserves the authority to establish lower limits on the size of groups eligible to use RAES. Size limits may be imposed by the appropriate MPC at any time.]

⁴³ 15 U.S.C. 78s(b).

⁴⁴ 15 U.S.C. 78mm(a)(1).