

acquire those FITRs from the Index Fund and tender those FITRs for redemption to the Index Fund in Creation Unit Aggregations only. Any advertising material that describes the purchase or sale of Creation Unit Aggregations or refers to redeemability will prominently disclose that FITRs are not individually redeemable and that owners of FITRs may acquire those FITRs from the Index Fund and tender those FITRs for redemption to the Index Fund in Creation Unit Aggregations only.

5. Before an Index Fund may rely on the order, the Commission will have approved, pursuant to rule 19b-4 under the Exchange Act, an Exchange rule requiring Exchange members and member organizations effecting transactions in FITRs to deliver a Product Description to purchasers of FITRs.

6. The website for the Trust, which will be publicly accessible at no charge, will contain the following information, on a per FITR basis, for each Index Fund: (a) The prior business day's NAV and Bid Price, and a calculation of the premium or discount of such Bid Price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for each Index Fund will state that the website of the Trust has information about the premiums and discounts at which the Index Fund's FITRs have traded.

7. The Prospectus and the annual report for each Index Fund will also include: (a) The information listed in condition 6(b), (i) in the case of the Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per FITR basis for one, five and ten year periods (or life of the Index Fund), (i) the cumulative total return and the average annual total return based on NAV and Bid Price, and (ii) the cumulative total return of the relevant Underlying Index.

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

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 02-22888 Filed 9-9-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46451; File No. SR-Amex-2002-46]

### Self-Regulatory Organizations; the American Stock Exchange LLC; Order Granting Approval to a Proposed Rule Change Relating to the Amex Listing Agreement

September 3, 2002.

On May 29, 2002, the American Stock Exchange LLC ("Amex or Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to modify the Amex Listing Agreement for issuers.

The proposed rule change was published for comment in the **Federal Register** on July 23, 2002.<sup>3</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>4</sup> and, in particular, the requirements of section 6 of the Act<sup>5</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-Amex-2002-46) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

Deputy Secretary.

[FR Doc. 02-22891 Filed 9-9-02; 8:45 am]

BILLING CODE 8010-01-P

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 46218 (July 17, 2002), 67 FR 48231 (July 23, 2002).

<sup>4</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation.

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

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46455; File No. SR-CBOE-2002-42]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Establishing To Adopt an Access Fee for Non-Customer Orders in the MNX<sup>SM</sup>, NDX, QQQ, and XEO<sup>®</sup> Options Classes Executed Through the Retail Automatic Execution System

September 3, 2002.

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 August 1, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" 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 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 Exchange proposes to adopt an access fee for non-customer orders in the Nasdaq 100<sup>®</sup> Index Tracking Stock ("QQQ"), Nasdaq-100<sup>®</sup> Index ("NDX"), CBOE Mini-NDX Index ("MNX<sup>SM</sup>"), and European style S&P 100<sup>®</sup> Index ("XEO<sup>®</sup>") option classes executed through its Retail Automatic Execution System ("RAES"). The text of the proposed rule change appears below. New text is in italics.

#### FEE SCHEDULE AS OF JULY 1, 2002

4. RAES (Retail Automatic Execution System) (1)(4)	Per contract
Assessed to Index Customer Transactions .....	\$ .25
• Dow Jones, Assessed on the First 25 Contracts Only	
Assessed to Non-Customer Transactions in MNX, NDQ, QQQ and XEO .....	\$ .30

\* \* \* \* \*

(1) Per contract side, including FLEX options. Transaction and Trade Match Fees are applicable to the CBOEdirect system.

\* \* \* \* \*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.