Pursuant to the proposed interpretations, once the system malfunction has been corrected and the market quotes have been updated, either the senior person then in charge of the Exchange's Control Room, or the Order Book Official, or the RAES Supervisor may re-start RAES.

Conclusion

CBOE believes that the proposed rule change is consistent with and further the objectives of Section 6(b)(5) of the Act, in that the rules change is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest by enabling the Control Room to turn off RAES to prevent trades based on inaccurate market quotes.

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

CBOE does not believe that the proposed rule change will impose any burden on competition.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

Ayanian, Attorney, OMS, Division, Commission, on Monday, February 13, 1995.

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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR-CBOE-95-06 and should be submitted by March 16,

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 2

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–4401 Filed 2–22–95; 8:45 am] BILLING CODE 8010–01–M

[Release No. 34–35389; File No. SR–NASD– 94–78]

Self-Regulatory Organizations; Order Granting Accelerated Approval of a Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Exercise Cut-Off Procedures for Expiring Equity Options Contracts

February 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b–4 thereunder,² on December 23, 1994, the National Association of Securities Dealers, Inc. ("NASD") submitted to the securities and Exchange Commission ("Commission") a proposed rule change relating to the exercise procedures for expiring equity options contracts. The proposal was published for comment in the **Federal Register** on January 25, 1995.³ No comments were received on the proposed rule change. This order approves the proposed rule change.

Currently, with regard to expiring standardized equity options, Section 63 of the NASD's Uniform Practice Code ("Practice Code") provides that NASD members and their customers are required to indicate their exercise decisions to clearing members no later than 5:30 p.m. (E.S.T.) on the business day immediately prior to the expiration date of the options ("Exercise Cut-Off

Time").⁴ This is the latest time by which an exercise instruction ⁵ may be: (1) Prepared by a clearing member for positions in its proprietary trading account; (2) accepted by a clearing member from a non-clearing member; or (3) accepted by a member from any customer.⁶

The only exceptions to the Exercise Cut-Off Times contained in Section 63 of the Practice Code are: (1) To remedy mistakes or errors made in good faith; (2) to take appropriate action as the result of a failure to reconcile an unmatched option transaction; (3) where exceptional circumstances relating to a customer's or member's ability to communicate exercise instructions to a member (or a member's ability to receive such exercise instructions) prior to the Exercise Cut-Off Time warrant such action; and (4) with respect to options contracts in an account maintained for another member in which only positions of customers of such other member are carried. Members are required to prepare a memorandum of every exercise instruction received from a customer stating the time when such instruction was received. In addition, in the event a member receives and acts on an exercise instruction pursuant to one of the exceptions noted above, the member must prepare a memorandum setting forth the circumstances giving rise to the exception. If the member is relying on either the first or the third exception described above, the member must promptly file a copy of the memorandum with the NASD.

Thus, it is presently a violation of Section 63 of the Practice Code for clearing members to accept exercise instructions after the Exercise Cut-Off Time, except in reliance on one of the exceptions noted above. Because

 $^{^2\,17\} CFR\ 200.30 - 3(a)(12)\ (1994).$

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1993).

³ See Securities Exchange Act Release No. 35235 (January 18, 1995), 60 FR 4936 (January 25, 1995).

⁴ Generally, the rules of the options exchanges provide that equity options may be traded up until the close of business on the last business day before expiration, which is generally the third Friday of the expiration month ("Expiration Friday"). See, e.g. CBOE Rule 11.1 and Phlx Rule 1042.

⁵For customers, an exercise instruction is a notice delivered to a member to exercise an option. For a clearing member of The Options Clearing Corporation ("OCC") or a market maker or floor broker on a national options exchange, an exercise instruction is a notice to OCC to exercise an option that would not be automatically exercised pursuant to OCC's exercise-by-exception procedure ("OCC Rule 805"), or not to exercise an option that would otherwise be automatically exercised pursuant to OCC Rule 805. *See infra* note 9. The OCC has separate rules regarding the cut-off time by which exercise notices must be delivered to OCC by OCC clearing members. The proposed rule change does not in any way affect OCC rules.

⁶In most cases, exercise instructions are electronically transmitted to OCC clearing members through the Clearing Management and Control System ("C/MACS").