

request of a specialist, any other stock with the approval of a floor official.

Other proposed rules apply to MOC orders on Non-Expiration Days. No such MOC order may be entered after 2:50 p.m., Central Time, in any stock, except to offset a published order imbalance.

Floor brokers representing such orders must indicate their MOC interest to the specialist by 2:50 p.m. No MOC order in any stock may be canceled or reduced in size after 2:50 p.m. Cancellations to correct a legitimate error, however, will continue to be permitted after 2:50 p.m.

For MOC orders on Non-Expiration Days, as soon as practicable after 2:50 p.m., notice will be published by the Exchange of any MOC order imbalance of 50,000 shares or more in the Pilot Stocks,³ stocks being added to or dropped from an index, and, upon the request of a specialist, any other stock with the approval of a floor official.

A specialist will only be obligated to accept and guarantee execution of those MOC orders that are of a size and type that a specialist would otherwise be required to accept and guarantee execution of, if the orders did not have a market-at-the-close designation.

The proposed rule change provides that a specialist shall execute MOC orders in a stock in a specified manner. Where there is an imbalance between the buy and sell MOC orders, the specialist shall, at the close of the Primary Trading Session on that day, execute the imbalance for its own account at the closing price on the primary market of the stock. The specialist shall then stop the remaining buy and sell orders against each other and pair them off at the closing price on the primary market of the stock. The "pair off" transaction shall be reported to the consolidated last sale reporting system as "stopped stock." Where the aggregate size of the buy MOC orders equals the aggregate size of the sell MOC orders, the buy orders and sell orders shall be stopped against each other and paired off at the closing price on the primary market of the stock. The transaction shall be reported to the consolidated last sale reporting system as "stopped stock."

Proprietary orders represented pursuant to Section 11(a)(1)(G)⁴ of the Act (i.e., "G" orders) must be announced as such and yield priority, parity and precedence to any order which is for the account of a person who is not a member, member organization or associated person thereof. Market orders to sell short at-the-close represented as "G" orders

must yield priority, parity and precedence to limit orders not represented pursuant to Section 11(a)(1)(G) of the Act. For example, in executing paired-off MOC orders, a "G" order to sell short at-the-market would yield to sell orders limited at the closing price that are not represented as "G" orders. This will be the policy even if the "G" order to sell short at-the-market theoretically could have been executed at a better price (and still satisfy the "short sale" rule in terms of a "plus" or "zero plus" tick) had there not been a pair-off on the transaction. This would not be applicable if the order was a market order to sell "long" or a market order to buy.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5)⁵ of the Act in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange did not solicit or receive written comments 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 Exchange consents, the Commission will:

(A) By order approve the 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, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 522, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-97-19 and should be submitted by November 14, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-28179 Filed 10-23-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39257; File No. SR-CHX-97-27]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Execution of Stopped Orders Under the Enhanced SuperMAX Program

October 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 15, 1997, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ *Id.*

⁴ 15 U.S.C. § 78k(a)(1)(G).

⁵ 15 U.S.C. § 78f(b)(5).

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 amend its Rule 37(e) of Article XX relating to the execution of stopped orders under the CHX's Enhanced SuperMAX program. The text of the proposed rule change is available at the Office of the Secretary, the CHX, and at the Commission.

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

On May 22, 1995, the Commission approved a proposed rule change that allows specialists on the Exchange, through the Exchange's MAX system, to provide order execution guarantees that are more favorable than those required under CHX Rule 37(a), Article XX.³ That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options available under the rule.⁴

On September 16, 1997, the CHX proposed changes to the Enhanced SuperMAX program.⁵ For technological reasons, the CHX has decided not to implement those changes at this time. Instead, the CHX will continue to operate the Enhanced SuperMAX program, as that program existed prior to the September 1997 proposed changes.

As a result, as is currently the case, under the Enhanced SuperMAX

program, certain orders will be "stopped" at the ITS BBO (as that term is defined in Article XX, Rule 37 of the CHX rules) and will be executed with reference to the next primary market sale. The Enhanced SuperMAX program will continue to include a time-out feature whereby if there are no executions in the primary market after the order has been stopped for a designated time period, the order will be executed at the stopped price at the end of such period. Such period, known as a time-out period, will continue to: (1) Be pre-selected by a specialist on a stock-by-stock basis based on the size of the order; (2) be able to be changed by a specialist no more frequently than once a month; and (3) last no less than 30 seconds.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose a burden on competition.

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

No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(e)(6)⁸ thereunder because it: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) was provided by the Exchange to the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date. A proposed rule change filed under Rule 19b-4(e) does not become operative prior to thirty days after the date of filing or such shorter time as the Commission may

designate if such action is consistent with the protection of investors and the public interest. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds good cause to accelerate the thirty day period for the proposed rule change to become operative prior to the thirtieth day after the date of the filing, October 15, 1997. The Commission notes that due to technological obstacles, the Exchange currently is unable to implement the changes to its Enhanced SuperMAX program envisioned in its September filing, which became effective upon filing. The Commission further notes that acceleration will allow the Exchange to continue to enforce its rules relating to the treatment of stopped orders under the Enhanced SuperMAX program, as such rules existed prior to the September filing. For the foregoing reasons, the proposed rule change will become operative immediately.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule 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 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All submissions should refer to file number SR-CHX-97-27 and should be submitted by November 14, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

³ See Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995) (order approving File No. SR-CHX-95-08).

⁴ *Id.*

⁵ See Securities Exchange Act Release No. 39162 (September 30, 1997), 62 FR 52367 (October 7, 1997) (File No. SR-CHX-97-23).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(30)(A).

⁸ 17 CFR 240.19b-4(e)(6).

⁹ 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-28180 Filed 10-23-97; 8:45 am]

BILLING CODE 8010-10-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39259; File No. SR-CHX-22]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Exchange's Automated Execution System

October 20, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 12, 1997, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change, as described in Items I and II 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 proposed to amend Rule 37(b)(6) of Article XX of the Exchange's Rules, relating to the Exchange's automated execution system, the "MAX System." The modification provides for a fifteen second delay before a MAX execution except where the spread between the ITS Best Bid and ITS Best Offer is equal to the minimum price variation in the relevant issue.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange 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

Article XX, Rule 37(b)(6) currently provides that, when using the Exchange's MAX System in the execution of Dual Trading System issues, there will generally be a fifteen second delay between the time a market order is entered into MAX and the time it is automatically executed. This delay allows opportunity for price improvement. However, Rule 37(b)(6) also currently provides that where the spread between the ITS Best Bid and ITS Best Offer is $\frac{1}{8}$ point, on order will immediately be executed (because of the lack of opportunity for price improvement).

Certain Dual Trading System issues have recently begun trading in minimum variations less than $\frac{1}{8}$ point (e.g., $\frac{1}{16}$ point). In recognition of this change, the proposed rule change provides for a fifteen second delay before a MAX execution except where the spread between the ITS Best Bid and ITS Best Offer is equal to the minimum variation in the relevant issue. The Exchange believes this modification will allow customers the maximum opportunity for price improvement.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5)² of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

III. 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, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 522, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-97-22 and should be submitted by November 21, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Exchange's proposed rule change and believes, for the reasons set forth below, the proposal is consistent with the requirements of Section 6 of the Act³ and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5)⁴ of the Act because it will facilitate transactions in securities by providing investors with the opportunity for price improvement, promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of a free and open market.

The proposed rule change modifies the Exchange's rule relating to its MAX System so that automatic execution is delayed to provide the opportunity for price improvement in stocks trading in minimum increments of less than $\frac{1}{8}$. This modification comports with the movement towards smaller trading and quotation increments for equity securities traded on securities exchanges.⁵ Furthermore, it establishes

³ 15 U.S.C. § 78f.

⁴ 15 U.S.C. § 78f(b)(5).

⁵ Securities Exchange Act Release Nos. 38571 (May 5, 1997), 62 FR 25682 (May 9, 1997) (approving an AMEX proposal to reduce the minimum trading variation from $\frac{1}{8}$ to $\frac{1}{16}$); 38744

Continued

¹ 15 U.S.C. § 78s(b)(1).

² 15 U.S.C. § 78f(b)(5).