

general, to protect investors and the public interest, The Commission also believes that the proposal is consistent with section 11A(a)(1)(C) and 11A(a)(1)(D) of the Act because the Exchange's proposal conforms CHX specialist obligations to those applicable to OTC market makers in Nasdaq/NM securities, while CHX provides a separate, competitive market for Nasdaq/NM securities.

The Commission notes, however, that while the Exchange has been working towards establishing a linkage, specialists and OTC market makers do not yet have an effective method of routing orders to each other. The Commission expects the Exchange to continue to work towards establishing a linkage with the Nasdaq systems as requested in the January 1997 Order.<sup>14</sup> The Commission is approving the extension of the pilot so that the rules of the Exchange will operate without interruption.

The Commission, therefore, finds good cause for approving the proposed rule change prior to thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

*It is therefore ordered*, pursuant to section 19(b)(2)<sup>15</sup> of the Act that the proposed rule change (SR-CHX-98-33)

be, and hereby is, approved through June 30, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

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

[FR Doc. 99-592 Filed 1-11-99; 8:45 am]

BILLING CODE 8010-01-M

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40880; File No. SR-CHX-98-30]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes by the Chicago Stock Exchange, Inc. Relating to MAX Executions of S&P 500 Issues, Floor Telephone Booth and Post Space Fees, and a Fee Waiver**

January 4, 1999.

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 December 21, 1998, 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, II, and III below, which Items

have been prepared by the CHX. 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 amend its Membership Dues and Fees Schedule to eliminate all transaction and order processing fees related to transactions in the stocks comprising the Standard & Poor's 500 Stock Price Index (the "S&P 500"), as determined and revised by Standard & Poor's from time to time, executed through the Exchange's Midwest Automated Execution System (the "MAX" System), effective January 1, 1999. Further, the Exchange proposes to amend its Membership Dues and Fees Schedule to change the floor telephone booth and post space fees charged to members from flat-rate fees to usage-based fees, effective July 1, 1999. In connection with the floor telephone booth and post space fee changes, the Exchange proposes to waive for six months, from January 1, 1999 to June 30, 1999, the existing floor telephone booth and post space charges applicable to floor members. The text of the proposed rule change is as follows (additions are *italicized*; deletions are [bracketed]):

**Membership Dues and Fees**

(c) Order Processing Fee Schedule:

|                         |   |
|-------------------------|---|
| Odd Lots .....          | \$ .35 per trade.                         |
|                         | \$400.00 maximum monthly fee.             |
| Open Limit Orders ..... | \$ .25 per trade (assessed on execution). |

The above order processing fees shall not apply to transactions in NASDAQ/NMS Securities, or to transactions in the stocks comprising the Standard & Poor's 500 Stock Price Index executed through MAX.

(d) Transaction Fee Schedule:

|   |  |
|---|--|
| (1) Market orders sent via MAX .....  | No charge.                                     |
| (2) All others orders (except as set forth below):  |  |
|   | Rate per share                                 |
| First 500 shares .....  | \$ .00   |
| Next 2,000 shares .....   | \$ .0075                                       |
| Next 7,500 shares .....   | \$ .005  |
| Remaining shares .....  | \$ .004 (up to a maximum of \$100.00 per side) |
| (3) Monthly maximums for fees incurred in (2) above:  |  |
| (i) Maximum monthly transaction fees for orders sent via MAX.   | \$7,000  |
| (ii) Maximum monthly transaction fee for firms without a floor broker or market maker presence on the floor.  | \$78,000                                       |
| (iii) Maximum monthly transaction fee for firms with a floor broker or market maker presence on the floor.  | \$54,000                                       |
| (iv) Maximum monthly transaction fees shall not exceed the lesser of that specified in (ii) or (iii) above, or \$ .40 per 100 average monthly gross round lot shares. |  |

The above transaction fees shall not apply to transactions executed through MAX in Tape B eligible issues or in the stocks comprising the Standard & Poor's 500 Stock Price Index. [which are executed through MAX.]

\* \* \* \* \*

(e) Equipment/Space Charges:

<sup>14</sup> See January 1997 Order, supra note 4.

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

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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

|                                       |   |
|---------------------------------------|---|
| Floor Telephone Booth .....           | [ \$42 per month per booth with one telephone and \$10 per month for each additional telephone in such a booth, except that there will be a minimum of \$42 per month per firm occupying the booth.] <i>Effective July 1, 1999, the expense to the Exchange of leasing the space occupied by the telephone booths shall be allocated pro rata based on usage among all floor members and member organizations on a monthly basis. Each member or member organization's portion shall be determined based on the percentage of actual square footage of floor telephone booth space occupied by each member.</i> |
| Post Space .....                      | [ \$100 each per month] <i>Effective July 1, 1999, the expense of the Exchange of leasing the post space shall be allocated pro rata based on usage among all floor members and member organizations on a monthly basis. Each member or member organization's portion shall be determined based on the actual square footage of the post occupied by each member.</i>   |
| Technical Equipment (per month) ..... | Four Screen Rich Units: 250.00<br>Three Screen Rich Units: 208.35<br>Two Screen Rich Units: 166.65<br>Max Floor Broker Terminals: 37.95<br>Floor Broker Printer: 49.95<br>Specialist Back Post MAX Terminals: 37.95<br>Specialist Printer: 49.95  |
| Teletype Space .....                  | \$25 per month for each machine of every firm employing private teletype facilities on the Floor.   |
| Quote Machines .....                  | Quotron equipment, \$180 per month. Equipment options extra.  |
| Floor Box Rental .....                | \$1 per month, payable annually.  |

## 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 CHX 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 CHX 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

The Exchange is proposing three changes to its Membership Dues and Fees Schedule in this filing. First, the Exchange is proposing to eliminate all transaction and order processing fees for transactions in the stocks comprising the Standard & Poor's 500 Stock Price Index, as determined and revised by Standard & Poor's from time to time, executed through the Exchange's MAX System, effective January 1, 1999. The purpose of this change is to make the Exchange more competitive in attracting order flow in these actively traded stocks.

Second, the Exchange is proposing to change the floor telephone booth and post space fees from flat-rate fees to pro rata fees based on the Exchange's cost of leasing the space as divided among members according to the square footage

of floor telephone booth and post space occupied by each member, effective July 1, 1999. The purpose of this change is to pass through to floor members the Exchange's actual cost of leasing the space on the Floor so that member fees more accurately reflect actual Exchange costs.

Finally, the Exchange is proposing to waive, for a period of six months, the current floor telephone booth and post space charges applicable to floor members. The waiver period will begin January 1, 1999, and end June 30, 1999, thus coinciding with the start of the new floor telephone booth and post space fee structure.

The Exchange's Finance Committee has determined that after the proposed changes in fee structure, the Exchange will have ample capital and resources to continue to fulfill its proscribed duties in its capacity as a self-regulatory organization and as a registered national securities exchange.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among members, issuers, and other persons using the Exchange's facilities.

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

The CHX 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 on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change, which establishes or changes a due, fee, or other charge applicable to members of the Exchange, has become effective pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and subparagraph (e)(2) of Rule 19b-4 thereunder.<sup>4</sup> At any time within 60 days of the filing of such 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.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

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

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 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. 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 No. SR-CHX-98-30 and should be submitted by February 2, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-595 Filed 1-11-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40876; File No. SR-Phlx 98-56]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Enhanced Parity Split Pilot Program for Equity and Index Option Specialists and the Adoption of an Enhanced Parity Split for Specialists that Develop and Trade New Products

December 31, 1998.

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 December 28, 1998, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") 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 and to grant partial accelerated approval to the proposed rule change.

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

The Exchange seeks the extension of an permanent approval of its enhanced parity split pilot program for equity and index option specialists ("Pilot Program"). The Pilot Program is currently scheduled to expire on December 31, 1998. In addition, the Exchange proposes to amend Exchange Rule 1014(g) "Equity Option and Index Option Priority and Parity," and its corollary Option Floor Procedure Advice B-6 to provide an enhanced parity split for Exchange specialists that develop and trade new products.

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 IV 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

a. Permanent Approval of the Pilot Program. On August 26, 1994, the Commission approved the Pilot Program to provide Exchange specialists with an enhanced participation in parity equity option trades.<sup>3</sup> Initially, the Pilot Program was approved for a one year period ending August 26, 1995. On November 30, 1994, the Commission approved the Exchange's proposal to include index option specialists in the Pilot Program.<sup>4</sup> The Pilot Program was later revised on March 1, 1995, with respect to situations where less than three controlled accounts are on parity with the specialist.<sup>5</sup> The Pilot Program

was subsequently renewed without change on three occasions.<sup>6</sup>

Most recently, the Pilot Program was extended to December 31, 1998, and modified so that (1) the enhanced parity split applies to all index options, in addition to applying to 50% of each specialist's equity option issues and 100% of all new option classes allocated to the specialist during the year; and (2) specialists may revise the list of eligible equity options on a quarterly basis, rather than annually.<sup>7</sup>

The Exchange now seeks the extension<sup>8</sup> of and permanent approval<sup>9</sup> of the Pilot Program. The Pilot Program currently works as follows: When an equity or index option specialist is on parity will one controlled account<sup>10</sup> and the order is for more than five contracts, the specialist will receive 60% of the contracts and the controlled account will receive 40%. When the specialist is on parity with two controlled accounts and the order is for more than five contracts, the specialist will receive 40% of the contracts and each controlled account will receive 30%. When the specialist is on parity with three or more controlled accounts and the order is for more than five contracts, the specialist will be counted as two crowd participants when dividing up the contracts. In any of these situations, if a customer is on parity, the customer will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.<sup>11</sup>

<sup>6</sup> Securities Exchange Act Release Nos. 36122 (Aug. 18, 1995), 60 FR 44530 (Aug. 28, 1995); 37524 (Aug. 5, 1996), 61 FR 42080 (Aug. 13, 1996); and 38924 (Aug. 11, 1997), 62 FR 44170 (Aug. 19, 1997).

<sup>7</sup> Securities Exchange Act Release No. 39401 (Dec. 4, 1997), 62 FR 65300 (Dec. 11, 1997). The Exchange has noted that it maintains a separate, permanent enhanced parity split program for "new" option specialist units that trade newly listed options. See Exchange rule 1014(g)(iii), "New Unit/New Option Enhanced Specialist Participation" and Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994).

<sup>8</sup> The Exchange has requested that the Commission accelerate approval of the proposed rule change for the portion relating to the extension of the enhanced parity split Pilot Program for a six-month period or until the Commission approves the Exchange's request for permanent approval of the Pilot Program, whichever occurs first.

<sup>9</sup> Under the proposal, the text of Exchange Rule 1014 and its corollary Option Floor Procedure Advice B-6 would be revised to eliminate references to an expiration date.

<sup>10</sup> A controlled account is defined as "any account controlled by or under common control with a member broker-dealer." Customer accounts, which include discretionary accounts, are defined as all accounts other than controlled accounts and specialist accounts. See Exchange Rule 1014(g).

<sup>11</sup> As the Commission noted in the most recent order extending the Pilot Program, the application of the enhanced parity split is mandatory. Therefore, with respect to any equity or index options transaction that implicates the enhanced

Continued

<sup>5</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Securities Exchange Act Release No. 34606 (Aug. 26, 1994), 59 FR 45741 (Sept. 2, 1994).

<sup>4</sup> Securities Exchange Act Release No. 35028 (Nov. 30, 1994), 59 FR 63151 (Dec. 7, 1994).

<sup>5</sup> Securities Exchange Act Release No. 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995).