

reduced minimum tick fluctuations, the change could result in added benefits to the market such as increased liquidity in stocks priced below \$10.⁷ The Commission believes that decreasing such trading variations should help to produce more accurate pricing of such securities and can result in tighter quotations.

Furthermore, the Amex represents that approximately 60% of all equity securities presently traded on the Amex sell for under \$10 per share.⁸ The Commission believes that the tighter quotation resulting from trading these securities in sixteenths should provide customers with the most competitive market and the best possible execution of their transactions in securities priced below \$10.

In addition, the Commission believes that the proposal should lead to increased competition between the exchanges pursuant to Section 11A of the Act. As noted above, ITS participants will have the capability to trade in sixteenths in Amex-listed securities. By ensuring that all ITS participants can quote in sixteenths, customers should be able to receive a better, more competitive price in securities priced below \$10.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-Amex-95-02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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⁷ The rule change is consistent with the recommendation of the Division of Market Regulation (the "Division") in its Market 2000 Study, in which the Division noted that the 1/8 minimum variation can cause artificially wide spreads and hinder quote competition by preventing offers to buy or sell at prices inside the prevailing quote. See Division of Market Regulation, SEC, *Market 2000: An Examination of Current Equity Market Developments* (January 1994), at 18.

⁸ The Amex estimates that the rule change will increase the number of securities traded in sixteenths from 362 securities (approximately 37% of Amex-listed securities) to 589 securities (approximately 60% of Amex-listed securities). These estimates were made by the Exchange as of February 3, 1995.

⁹ 15 U.S.C. 78s(b)(2) (1988).

¹⁰ 17 CFR 200.30-3(a)(12) (1994).

[Release No. 34-35538; File No. SR-CBOE-95-18]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Fractional Changes for Bids and Offers in Stocks Priced Below \$10

March 27, 1995.

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 March 6, 1995, 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 and II below, which Items have been prepared by the self-regulatory organization. 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 CBOE proposes to amend its rule respecting the permissible fractional changes that may be made for bids and offers in stocks and related instruments that are priced below \$10 per share.

The Exchange requests the Commission to find good cause, pursuant to section 19(b) (2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

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 III below. The self-regulatory organization has prepared summaries, set forth in Section 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 proposed rule change increases from \$1 to \$10 the price level below

which stocks or other designated instruments may be traded in sixteenths, *i.e.*, 1/16 of \$1 (\$.0625). CBOE Rule 30.33, Fractional Changes for Bids and Offers, currently requires bids and offers in stocks (and other instruments that may be traded on the Exchange pursuant to Chapter 30 of the CBOE Rules) with a price of \$1 or less to be made at a variation of at least 1/8 of (\$.125).³ Currently, the rule only permits variations of as little as 1/16 of \$1 for bids and offers in stocks and other instruments that have a price below \$1 but above \$.25 per share. Bids and offers in stocks with prices of less than \$.25 per share may be varied by as little as 1/32 of \$1 per share (\$.03125).

The Exchange believes that by increasing the number of stocks and other instruments eligible to be traded in sixteenths, the Exchange will be better able to compete for listings in instruments, such as warrants. In fact, the Exchange's proposal is identical to a proposal of the American Stock Exchange ("Amex"), which recently was approved by the Commission.⁴ The Exchange believes that trading in sixteenths will improve the market for securities trading under \$10 by promoting greater liquidity and providing for superior executions of retail and professional orders. Also, the proposal is responsible to the recommendations of the Division of Market Regulation in its Market 2000 Study that the exchanges convert to a minimum variation of one-sixteenth as soon as possible.⁵

In 1992, participants of the Intermarket Trading System (ITS)⁶ met to discuss the need to make changes to the ITS to accommodate increased trading of securities priced sixteenths. The Exchange anticipates that further

³ The Commission notes that the CBOE currently does not trade any securities pursuant to Chapter 30 of the CBOE rules except for SuperShares, which are traded in thirtyseconds. Therefore, the Rule change will not impact any transactions presently effected on the Exchange.

⁴ See Securities Exchange Act Release No. 35537 (March 27, 1995) (File No. SR-Amex-95-02) ("Amex Order").

⁵ Division of Market Regulation, SEC, *Market 2000: An Examination of Current Equity Market Developments* (January 1994), at 18 ("Market 2000 Study").

⁶ ITS is a subsystem of the National Market System approved by the Commission pursuant to Section 11A of the Act, 15 U.S.C. § 78k-1 (1988). It facilitates intermarket trading in exchange-listed equity securities based on the current quotation information emanating from the linked markets. For a discussion of ITS, see Market 2000 Study, *supra* note 2, at App. II. Participants of ITS include the Amex, Boston Stock Exchange, CBOE, Chicago Stock Exchange, Cincinnati Stock Exchange, New York Stock Exchange, Pacific Stock Exchange, Philadelphia Stock Exchange, and the National Association of Securities Dealers.

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

consultations will be held between ITS participants to explain to each of them the necessity of making system changes to accommodate the trading through ITS of CBOE instruments priced under \$10.⁷

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general and with Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and public interest.

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

The 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 Purpose of Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

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 submission, 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 5 U.S.C. § 552, 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 CBOE. All submissions should refer to File No. SR-CBOE-95-18 and should be submitted by [insert date 21 days from date of publication].

⁷ At the February 1995 meeting of the ITS Operating Committee, the ITS participants approved enhancements to ITS to permit trading in sixteenths for Amex-listed securities priced under \$10.

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

The Commission finds that the proposed rule change to increase from \$1 to \$10 the price level below which equity securities may be traded in sixteenths, and at or above which equity securities may be traded in eighths, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b) and 11A.⁸ The Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Additionally, the Commission believes that the proposal is consistent with Section 11A, which requires the Commission to facilitate the establishment of a national market system. Pursuant to Section 11A, a national market system should assure, among other things, fair competition between the exchanges, economically efficient execution of securities transactions and the practicability of brokers executing investors' orders in the best market.

Although the CBOE currently does not trade any securities that would be affected by the proposal, the rule change to allow trading in sixteenths for securities priced under \$10 will make the CBOE's Rule consistent with the recently approved Amex Rule, and will allow the Exchange to trade any future equity listings in sixteenths.

The Commission generally believes that market quality should be enhanced by applying a minimum fractional change of $\frac{1}{16}$, rather than $\frac{1}{8}$, to securities selling below \$10. The Commission believes that decreasing such trading variations should help to produce more accurate pricing of such securities and can result in tighter quotations. In addition, if the quoted markets are improved by the reduced minimum tick fluctuations, the change could result in added benefits to the market such as increased liquidity in stocks priced below \$10.⁹ The Commission believes that decreasing

⁸ 15 U.S.C. 78f(b) and 78k-1 (1988).

⁹ The rule change is consistent with the recommendation of the Division of Market Regulation (the "Division") in its Market 2000 Study, in which the Division noted that the $\frac{1}{8}$ minimum variation can cause artificially wide spreads and hinder prices inside the prevailing quote. See Division of Market Regulation, SEC, Market 2000: An Examination of Current Equity Market Developments (January 1994), at 18.

such trading variations should help to produce more accurate pricing of such securities and can result in tighter quotations.

In addition, the Commission believes that the proposal could lead to increased competition between the exchanges pursuant to Section 11A of the Act. As noted above, ITS participants now have the capability to trade securities priced below \$10 in sixteenths.¹⁰ Should the CBOE begin trading equity securities, customers should be able to receive a better, more competitive price in securities priced below \$10 if they are quoted in sixteenths.

The Commission finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to allow the CBOE to permit equities priced below \$10 to be traded in sixteenths. Further, the Amex proposal to allow trading in sixteenths for Amex-listed securities priced below \$10 was noticed previously in the **Federal Register** for the full statutory period and the Commission did not receive any comments on it.¹¹

It Is Therefore Ordered, pursuant to Section 19(b)(2)¹² that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35544; File No. SR-MSRB-95-02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G-37 on Political Contributions and Prohibitions on Municipal Securities Business

March 28, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, notice is hereby

¹⁰ See Amex Order, *supra* note 4.

¹¹ See Securities Exchange Act Release No. 35338 (February 7, 1995), 60 FR 8432 (February 14, 1995) (File No. SR-Amex-95-02).

¹² 15 U.S.C. 78s(b)(2) (1988).

¹³ 17 CFR 200.30-3(a)(12) (1994).