

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 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, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-95-07 and should be submitted by [insert date 21 days of publication].

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

The Commission finds that the BSE's proposal to extend its preferencing pilot program to October 2, 1995 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>8</sup> in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. The pilot is extended under the same conditions set out in the original pilot approval order.<sup>9</sup>

The Commission notes that pursuant to its original pilot approval order, the BSE was required to submit quarterly data reports and a report analyzing such data.<sup>10</sup> The BSE has submitted data to the Commission. In addition, the Commission has received extensive commentary on the Cincinnati Stock Exchange's ("CSE") request for permanent approval of its preferencing

pilot<sup>11</sup> that present issues similar to those raised by the BSE pilot. In sum, the Commission is reviewing the comments and data submitted thus far, and believes that due to the complexity of the issues, and significant amount of data, the preferencing pilot should be extended to provide the Commission with adequate time to more thoroughly evaluate the data and the issues involved in the filing for permanent approval.

The Commission finds good cause for approving the proposed rule change prior to 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 avoid an unnecessary interruption to the pilot while allowing the Commission to continue to evaluate the data.

It is therefore ordered, pursuant to Section 19(b)(2)<sup>12</sup> that the proposed rule change is hereby approved, and the competing specialist pilot is extended through October 2, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITY AND EXCHANGE COMMISSION

[Release No. 34-35717; File No. SR-CSE-95-06]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to the Preferencing of Public Agency Market and Marketable Limit Orders by Approved Dealers and Other Proprietary Members

May 15, 1995.

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 May 1, 1995, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with

<sup>11</sup> See, File No. SR-CSE-95-03, Securities Exchange Act Release No. 35448 (March 7, 1995), 60 FR 13493 (March 13, 1995). The comments received on this proposal are available from the CSE or the Commission. (See Section III, *supra*.)

<sup>12</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>13</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

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 Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") hereby proposes to extend the CSE's pilot program regarding preferencing until October 2, 1995. The pilot was initially approved by the Commission on February 7, 1991 and is currently extended until May 18, 1995. (Securities Exchange Act Release No. 28866).

#### 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 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 purpose of the rule filing is to extend the existing pilot program of the Exchange relating to the preferencing of public agency market and marketable limit orders by approved dealers and other proprietary members until October 2, 1995. The Commission originally approved the pilot on February 7, 1991, (Securities Exchange Act Release No. 28866, 56 FR 5854 (Feb. 13, 1991)). The Commission has subsequently extended the pilot several times. (Securities Exchange Act Release Nos. 29524 (Aug. 5, 1991), 56 FR 38160; 30353 (Feb. 7, 1992), 57 FR 5918; 31011 (Aug. 7, 1992), 57 FR 38704; 32280 (May 7, 1993), 58 FR 28422; 33975 (April 28, 1994), 59 FR 23243 and 34493 (Aug. 5, 1994)). The Commission staff has requested the Exchange seek a limited extension until the October date.

<sup>8</sup> 15 U.S.C. 78f(b)(5) (1988).

<sup>9</sup> The BSE competing specialist program is limited by the following: (1) a competing specialist may preference up to a maximum of 20 stocks; (2) the number of competitors in any given stock is limited to three (one regular specialist and two competing specialists); (3) no payment for order flow; and (4) no index arbitrage. The Commission also notes that prior to the original approval order the BSE represented that, during the pilot program, the total number of stocks subject to competition will not exceed 360. See Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1994).

<sup>10</sup> See Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1995).

## 2. Statutory Basis

The exchange believes that the proposed rule change is consistent with Sections 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanisms of a free and open market and a national market system.

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

The CSE 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 CSE solicited comments on the filing from other Intermarket Trading System participants. None were 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 CSE. All submissions should refer to File No. SR-CSE-95-06 and should be submitted by [insert date 21 days from date of publication].

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

The Commission finds that the CSE's proposal to extend its preferencing pilot program to October 2, 1995 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the

Act<sup>3</sup> in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. The pilot is extended under the same conditions set out in the prior pilot approval orders.<sup>4</sup>

The pilot modifies CSE's priority rules in order to permit one designated dealer to step ahead of another, at the same or better price, when trading with its own customer order. Public orders in the CSE book continue to have priority over all preferencing interest.

The Commission notes that pursuant to its most recent pilot extension approval order, the CSE was required to submit quarterly data reports and a report analyzing such data.<sup>5</sup> The CSE has submitted data to the Commission. In addition, the Commission has received extensive commentary on the CSE's request for permanent approval of its preferencing pilot, noticed for comment on March 13, 1995.<sup>6</sup> The Commission is currently reviewing the comments and data submitted thus far, and believes that due to the complexity of the issues, the extensive comment letters, and the significant amount of data, the preferencing pilot should be extended to provide the Commission with adequate time to more thoroughly evaluate the data and the issues involved in the filing for permanent approval.

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 avoid an unnecessary interruption to the existing pilot, while allowing the Commission to continue to evaluate the data and comments submitted in response to the solicitation of comments published in March.

*It is therefore ordered*, pursuant to Section 19(b)(2)<sup>7</sup> that the proposed rule change is hereby approved, and the

<sup>3</sup> 15 U.S.C. 78f(b)(5) (1988).

<sup>4</sup> The CSE preferencing program is limited by the following: (1) A designated dealer may preference up to a maximum of 350 stocks; (2) no payment for order flow; (3) no index arbitrage. See letter from Fredrick Moss, Chairman of the Board of Trustees, CSE, to Richard G. Ketchum, Director, Division of Market Regulation, Commission, dated November 14, 1990.

<sup>5</sup> See Securities Exchange Act Release No. 34493 (Aug. 5, 1994), 59 FR 41531 (Aug. 12, 1995).

<sup>6</sup> See, File No. SR-CSE-95-03, Securities Exchange Act Release No. 35448 (March 7, 1995), 60 FR 13493 (March 13, 1995). The comments received on this proposal are available from the CSE or the Commission. (See Section III, *supra*.)

<sup>7</sup> 15 U.S.C. 78s(b)(2) (1988).

preferencing pilot is extended through October 2, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35715; File No. S7-27-93]

### **Consolidated Tape Association; Order Granting Approval of Seventeenth Substantive Amendment to the Restated Consolidated Tape Association Plan and Twenty-First Substantive Amendment to the Consolidated Quotation Plan**

May 12, 1995.

#### **I. Introduction**

On March 9, 1995, the Consolidated Tape Association ("CTA") and consolidated Quotation ("CQ") Plan Participants filed with the Securities and Exchange Commission ("Commission" or "SEC") amendments to the Restated CTA Plan and CQ Plan pursuant to Rule 11Aa3-2 of the Securities Exchange Act of 1934 ("Act"). Notice of the filing appeared in the **Federal Register** on April 3, 1994.<sup>1</sup> No comment letters were received in response to the Notice. For the reasons discussed below, the Commission has determined to approve the filing.

#### **II. Description**

The amendments change the procedure for allocating high speed line access fee revenues between "Network A" and "Network B" under each plan. Under the new procedure,<sup>2</sup> the participants will apply "relative message usage percentages" to the allocation of high speed line revenues between networks retroactively, beginning with the period commencing January 1, 1994.

The amendments also eliminate the requirements that the participants set the high speed line access fee at a level designed to recover the costs of making the high speed line available, and set indirect high speed line access fees at a level that equals one-half of the direct

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> Securities Exchange Act Release No. 35543 (March 28, 1995), 60 FR 16901.

<sup>2</sup> A description of the new procedure was included in the Notice of Filing of Amendment (see, note 1, *supra*), and is incorporated by reference herein.