

filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the File No. SR-CBOE-95-69 and should be submitted by January 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>1</sup>

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-36576; File No. SR-CHX-95-25]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Establishment of a Minor Rule Violation Procedure and Reporting Plan**

December 12, 1995.

Pursuant to Sections 19(b)(1) and (d)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and (d)(1), and Rules 19b-4 and 19d-1(c)(2) thereunder,<sup>1</sup> notice is hereby given that on October 11, 1995, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") 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 self-regulatory organization.<sup>2</sup> On December 8, 1995, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> 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 is proposing to add a minor rule violation procedure as Article XII, Rule 9 of the Exchange's rules, adopt a minor rule violation reporting plan,<sup>4</sup> and renumber existing Article XII, Rule 9.

**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**

The proposed minor rule violation procedure ("Procedure") authorizes the Exchange, in lieu of commencing a disciplinary proceeding, to impose a fine, not to exceed \$2,500, on any member, member organization, associated person or registered or non-registered employee of a member or member organization for any violation of an Exchange rule which the Exchange determines to be minor in nature. The Committee on Floor Procedure will have the same authority for violations relating to decorum on the Exchange trading floor.

If the fine is to be imposed by the Exchange (as opposed to the Committee on Floor Procedure) the fine shall be imposed in accordance with the method set forth in paragraph (b) of the Procedure. Specifically, prior to imposing the fine, the staff of the Exchange shall present the facts supporting such violative conduct to a

adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations to submit for SEC approval plans for the abbreviated reporting of minor disciplinary infractions. Under the amendments, any disciplinary action taken by a self-regulatory organization against any person for violation of a rule of the self-regulatory organization that has been designated as a minor rule violation pursuant to a plan filed with the SEC shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies with respect to the matter.

The SEC has approved minor disciplinary rule plans by virtually every stock exchange and the National Association of Securities Dealers, Inc. See, e.g., Securities Exchange Act Release No. 21919 (April 3, 1985), 50 FR 14068 (April 9, 1985) (File No. 4-260) (Amex); Securities Exchange Act Release No. 22415 (September 17, 1985), 50 FR 38600 (September 23, 1985) (File No. 4-284) (NYSE); Securities Exchange Act Release No. 22654 (November 21, 1985), 50 FR 48853 (November 27, 1985) (File No. 4-285) (PSE).

Minor Rule Violation Panel ("Panel"), which shall consist of three floor members (one member of the Committee on Floor Procedure, one member of the Committee's Rules Subcommittee, and one member not on the Committee or any of its subcommittees) appointed by the President of the Exchange. The Panel is then authorized to impose the fine. In the event the Panel does not impose the fine, the staff shall, under circumstances set forth in the Procedure, issue a report to the President. The President, in turn, may either impose the fine, direct the staff to prefer formal charges or reject the staff's recommendation entirely.

If a fine is to be imposed under the Procedure, the Exchange will serve a written statement on the person against whom a fine is imposed setting forth the rule violated, the act or omission constituting the violation, the fine imposed and the date of imposition, the date the fine must be paid and the date by which such determination must be contested.

If the person against whom a fine is imposed pursuant to the Procedure chooses not to contest the matter and pays the fine, he or she waives his or her right to a disciplinary proceeding under Article XII of the Exchange's rules and any right to review or appeal (to the extent such right would otherwise exist under current Exchange rules). Alternatively, any person may choose to contest a fine by submitting a written answer, at which point the matter becomes a "disciplinary proceeding" subject to the applicable provisions of Article XII, including all disciplinary sanctions available thereunder (except for contests of a fine by the Committee on Floor Procedure, which will be subject to the provisions of Article XII, Rule 3).

Under the Procedure, the Exchange will periodically prepare and announce to its members and member organizations a list of Exchange rules and policies as to which the Exchange may impose fines pursuant to the Procedure as well as the fines that may be imposed for their violation. The Procedure, however, expressly states that the Exchange is not required to impose a fine under the Procedure with respect to any violation of any rule included on such list. In addition, whenever the Exchange determines that a rule violation is not minor in nature, it has the discretion to commence disciplinary proceedings under Article XII of the CHX rules.

The Exchange also proposes to adopt a minor rule violation reporting plan ("Plan"). Under its Plan, the Exchange designates certain specified rule

<sup>1</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>2</sup> 17 C.F.R. 240.19b-4 and 19d-1(c)(2).

<sup>3</sup> The Exchange is submitting to the SEC concurrently with the proposed rule change a minor rule violation reporting plan in accordance with Rule 19d-1(c)(2) under the Act. See Letter from David Rusoff, Attorney, Foley & Lardner, to Glen Barrentine, Senior Counsel, SEC, dated October 6, 1995.

<sup>4</sup> See Letter from David Rusoff, Attorney, Foley & Lardner, to Glen Barrentine, Senior Counsel, SEC, dated December 8, 1995. Amendment No. 1 rennumbers existing Article XII, Rule 9 to Article XII, Rule 10.

<sup>5</sup> In Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984), the SEC

violations as minor rule violations and requests that it be relieved of the current reporting requirement of Rule 19d-1(c)(1) under the Act regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.<sup>5</sup> The Plan, however, would not cover any fine imposed pursuant to the Procedure that is contested. Such violations and fines would continue to be reported as they occur.

Initially, the Exchange is proposing to include the following rule and policy violations in both its Procedure and Plan: (1) Acquisition of membership by general or limited partner (Article II, Rule 1); (2) general partners bound by rules of Exchange (Article II, Rule 4); (3) notice of death or retirement of partner (Article II, Rule 9); (4) filing and approval of Articles of Incorporation (Article III, Rule 4); (5) authorization of officers to act (Article III, Rule 5); (6) officers, directors and principal stockholders (Article III, Rule 6); (7) death or retirement of registrant member (Article III, Rule 11); (8) transactions off the floor (Article VIII, Rule 9); (9) records of orders transmitted (Article IX, Rule 7); (10) dealing in stocks on put, call, straddle or option (Article IX, Rule 15); (11) record of margin calls and receipt of margin (Article X, Rule 2); (12) record of orders (Article XX, Rule 24); (13) specialist's book (Article XXX, Rule 4); (14) written reports of transactions (Article XXX, Rule 5); (15) record of orders (Article XXX, Rule 11); (16) financial operational reports (Article XI, Rule 4); (17) notification of change in bond coverage (Article XI, Rule 6); (18) filing requirements on change of examining authority (Article XI, Rule 7); (19) submission of books to board (Article VIII, Rule 11); (20) submission of evaluation of co-specialists survey (Article VIII, Rule 11); (21) failure to issue ITS pre-opening notification (Article XX, Rule 39); (22) failure to comply with ITS trade-through, locked markets and block trade rules (Article XX, Rule 40); (23) failure to comply with stop order rule (Article XXX, Rule 22); (24) failure to comply with 50 percent requirement (Article XXXIV, Rule 3); (25) failure to comply with trading from off the floor rule (Article XXXIV, Rule 4); (26) failure to comply with public outcry rule (Article XXXIV, Rule 10); (27) violation of Class A decorum rules (Article II, Rule 3,

Interpretation and Policy .01); (28) violation of Class B decorum rules (Article XII, Rule 3, Interpretation and Policy .01); (29) failure to comply with recognized quotations (Article XX, Rule 7); (30) failure to clear the post (Article XX, Rule 10); (31) failure to comply with cabinet securities provision (Article XX, Rule 11); (32) failure to comply with minimum fractional changes Article XX, Rule 22); (33) failure to comply with agency cross rule (Article XX, Rule 23); (34) failure to comply with "stopped" order rule (Article XX, Rule 28); (35) improper use of "SOLD" designator (Article VIII, Rule 7); (36) trading ahead of customer orders (Article XXX, Rule 2); (37) violation of preference solely on competitive basis rule (Article XXX, Rule 3).

The purpose of the Procedure is to provide a more appropriate response to certain rule violations. At the present time, when the staff of the CHX discovers a technical, inadvertent, or otherwise minor rule violation, often, the Exchange's only practical response is to issue a written letter of caution to the person(s) involved focusing attention on the necessity of fully complying with all Exchange rules and policies and warning against future violations. Such written admonitions, however, may not always successfully deter future violations. The other alternative, the initiation of a formal disciplinary proceeding may, in many cases, be too time consuming, too costly, and carry too severe a penalty for such minor violations. The ability to impose a fine on a discretionary basis may constitute a more effective deterrent than a cautionary letter while avoiding the severe penalty or attendant publicity of a disciplinary hearing. The Procedure provides for an appropriate response to minor rule violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures.

The purpose of the Plan is to provide the CHX with the flexibility to fashion reporting requirements that would result in the Commission receiving the necessary information regarding minor rule violations in the least burdensome way possible.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>6</sup> and will advance the objectives of Section 6(b)(6) of the Act<sup>7</sup> in that it will provide a procedure whereby members can be "appropriately disciplined" in those instances when a rule violation is

minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. In accordance with Sections 6(b)(7) and 6(d)(1) of the Act,<sup>8</sup> the proposed rule change provides a fair procedure for imposing such sanctions. Finally, the proposed plan is consistent with Section 6(d)(1) of the Act and Rule 19d-1(c)(2) thereunder, which authorizes self-regulatory organizations to adopt minor rule violation reporting plans.

### 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 written comments were either solicited or received.

## 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 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, 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

<sup>5</sup> The Exchange's quarterly report to the SEC will include: the CHX's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the fine imposed, the number of times the rule violation has occurred, and the date of disposition.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(6).

<sup>8</sup> 15 U.S.C. 78f(b)(7) and (d)(1).

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 Exchange. All submissions should refer to File No. SR-CHX-95-25 and should be submitted by January 8, 1996.

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

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36582; File No. SR-PHLX-95-78]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Extension of the Automated Options Market Pilot Program**

December 13, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 1, 1995, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 approving this proposal on an accelerated basis.

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

The PHLX proposes to extend the Exchange's Automated Options Market ("AUTOM") system for a one year period ending December 31, 1996.

The text of the proposal is available at the Office of the Secretary, the PHLX, 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**

AUTOM, which as operated on a pilot basis since 1988 and was most recently extended through December 31, 1995,<sup>1</sup> is the PHLX's electronic order routing, delivery, execution and reporting system for equity and index options. AUTOM is an online system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Exchange's trading floor.

Certain orders are eligible for AUTOM's automatic execution feature, AUTO-X, which was approved as part of the AUTOM pilot program in 1990.<sup>2</sup> AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the Options Price Reporting Authority ("OPRA") as well as the originating firm. Orders that are not eligible for AUTO-X are handled manually by the specialist and, upon execution of the order, are inputted into exchange systems for reporting to OPRA and the delivering firm.

Originally, the AUTOM pilot program was approved by the Commission for market orders of up to five contracts for 12 PHLX near-month equity options.<sup>3</sup> Since that time, AUTOM has been extended and amended several times.<sup>4</sup>

<sup>1</sup> See Securities Exchange Act Release No. 35183 (December 30, 1994), 60 FR 2420 (January 9, 1995) (order approving File No. SR-PHLX-94-41).

<sup>2</sup> See Securities Exchange Act Release No. 27599 (January 9, 1990), 55 FR 1751 (January 18, 1990) (order approving File No. SR-PHLX-89-03).

<sup>3</sup> See Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988).

<sup>4</sup> See Securities Exchange Act Release No. 35183, *supra* note 1. See also Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988) (order approving AUTOM on a pilot basis); 25868 (June 30, 1988), 53 FR 25563 (order approving File No. SR-PHLX-88-22, extending pilot through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (order approving File No. SR-PHLX-88-33, extending pilot program through June 30, 1989); 26522 (February 3, 1989), 54 FR 6465 (order approving File No. SR-PHLX-89-1, extending pilot through December 31, 1989); 27599 (January 9, 1990), 55 FR 1751 (order approving File No. SR-PHLX-89-03, extending pilot through June 30, 1990); 28625 (July 26, 1990), 55 FR 31274 (order approving File No. SR-PHLX-90-16, extending pilot through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (order approving File No. SR-PHLX-90-34, extending pilot through December 31, 1991); 29837 (October 18, 1991), 56 FR 36496 (order approving File No. SR-PHLX-90-03, extending pilot through December 31, 1993); and 33405 (December 30, 1993), 59 FR 790 (order approving File No. SR-PHLX-93-57, extending pilot through December 31, 1994); 29662 (September 9, 1991), 56 FR 46816 (order approving File No. SR-PHLX-91-

The purpose of the proposed rule change is to extend the AUTOM pilot program for a one-year period ending December 31, 1996. The PHLX believes that this extension of the pilot program should provide the Exchange with additional time to study the effectiveness of AUTOM prior to permanent approval. During this time, the Exchange intends to monitor the implementation of certain enhancements to AUTOM and to draft an Exchange rule codifying the entire pilot program.

Generally, the Exchange believes that, since the date of the last Commission order extending the AUTOM pilot program, AUTOM has functioned properly and efficiently, without any material problems reported by PHLX members or AUTOM users, and without significant malfunctions or operational failures.

AUTOM provides small customer option orders with the benefits of electronic delivery and reporting, while AUTO-X provides automatic executions as well. Accordingly, the Exchange believes that AUTOM increases the speed and efficiency of order delivery, execution and reporting. This, in turn, promotes both liquidity and fair and orderly markets. For these reasons, the PHLX believes that extending the AUTOM pilot program for a one-year period is consistent with Section 6 of the Act, in general, and, in particular, with Section 6(b)(5), in that the proposal is designed to promote just and equitable principles of trade, and to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with Section 11A(a)(1)(B) of the Act in

31, permitting AUTO-X orders up to 20 contracts in Duracell options only); 29782 (October 3, 1991), 56 FR 55146 (order approving File No. SR-PHLX-91-33, permitting AUTO-X for all strike prices and expiration months); 32906 (September 15, 1993), 58 FR 15168 (order approving File No. SR-PHLX-92-38, permitting AUTO-X orders up to 25 contracts in all options); and 33405 (December 30, 1993), 59 FR 790 (order approving File No. SR-PHLX-93-57, extending pilot through December 31, 1994); 34920 (October 31, 1994), 59 FR 55510 (November 7, 1994) (File No. SR-PHLX-94-40, codifying use of AUTOM for index options); 35601 (April 13, 1995), 60 FR 19616 (File No. SR-PHLX-95-18, codifying the use of AUTOM for certain order types); 35681 (May 30, 1995), 60 FR 30131 (June 7, 1995) (File No. SR-PHLX-95-29, increasing AUTO-X for USTOP 100 Index ("TPX") options to 50 contracts); 35782 (May 30, 1995), 60 FR 30136 (June 7, 1995) (File No. SR-PHLX-95-30, increasing the maximum AUTOM order size from 100 to 500 contracts); 36429 (October 27, 1995), 60 FR 55874 (November 3, 1995) (File No. SR-PHLX-95-35, allowing broker-dealer TPX option orders to be routed through AUTOM); and 36467 (November 8, 1995), 60 FR 57615 (November 16, 1995) (order approving File No. SR-PHLX-95-33, limiting AUTO-X for National Over-the-Counter Index options to series where the bid is \$10 or less).