

Further, the Commission believes that the market for such orders will likely be tighter and more competitive when both legs are executed at the same post.

The Commission does not believe that investors with public orders on the limit order book and represented in the trading crowd will be significantly disadvantaged by the proposed rule change. Exchange Rule 24.18 provides that OEX-SPX spread orders can only be executed ahead of corresponding bids or offers in the limit order book or the crowd under specified conditions. The member representing an OEX-SPX spread order must check the limit order books before filling the order. The member also must provide notice to the other trading crowd. In order to achieve priority over the books, at least one leg of the OEX-SPX spread order must improve the bids or offers in the books while the other leg cannot be outside the bids or offers in the books. Executing at least one leg of the order at a better price than the established bid or offer will improve the market on at least one side. In order to be executed ahead of bids and offers in the trading crowd, the spread order must trade at a price at least equivalent to the quotes in the crowd. These conditions ensure that OEX-SPX spread order priority will only be allowed when such priority is necessary to ensure the appropriate execution of OEX-SPX spread orders, and only when such orders are priced equal to (or better) than customer orders represented in the trading crowd¹⁰ and customer limit order book, as described in greater detail above.

The Commission finds good cause to approve Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, because the revised rule language contained in Amendment No. 2 merely clarifies the Exchange's original intent, it raises no new regulatory concerns. In addition, the CBOE's rule proposal was published for the entire twenty-one day comment period and generated no responses. Accordingly, the Commission believes that it is consistent with Sections 6(b)¹¹ and 19(b)(2)¹² of the Act to approve Amendment No. 2 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

¹⁰ The rule also protects broker-dealer proprietary orders in the trading crowd.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78s(b)(2).

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-97-15 and should be submitted by July 23, 1997.

V. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-CBOE-97-15) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38760; File No. SR-CHX-97-16]

Self-Regulatory Organizations; Notice of Filing of and Order Granting Temporary Accelerated Approval to a Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Trading Variations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 20, 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 and II below, which Items have been prepared by the self-regulatory organization. The

¹³ 15 U.S.C. § 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on a temporary basis to the proposed rule change.

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

The Exchange proposes to modify Article XX, Rule 22 of the CHX's Rules, relating to trading variations.

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

Article XX, Rule 22 of the Exchange's Rules gives the Exchange's Committee on Floor Procedure the authority to fix minimum variations for bids and offers in specific securities or classes of securities. Pursuant to this authority, the Exchange changed its minimum variation to $\frac{1}{16}$ of \$1.00 per share for securities traded both on the Exchange and the New York Stock Exchange ("NYSE") that are selling at or greater than \$1.00, and to $\frac{1}{32}$ of \$1.00 per share for such securities that are selling below \$1.00, effective at such time as enhancement to Intermarket Trading System ("ITS") is made to permit trading in Tape A issues in minimum variations of a sixteenth through ITS.

Since the date of that filing, the NYSE proposed changing its minimum variation to $\frac{1}{16}$ for all stocks trading at or above 50¢, rather than the \$1.00 standard adopted in SR-CHX-97-12.² The Commission recently approved the NYSE proposal.³ As a result, the

² The Commission notes that, at the time the CHX filed proposed rule SR-CHX-97-12, NYSE Rule 62 provided:

³ Securities Exchange Act Release No. 38744 (June 18, 1997) (granting temporary approval to a proposed rule change by the NYSE that, among other things, replaced eighths with sixteenths as the minimum variation for certain securities).

purpose of this proposed rule change is to adopt a minimum variation of $\frac{1}{16}$ for securities trading at or above 50¢, and a minimum variation of $\frac{1}{32}$ for securities trading below 50¢. Another purpose of the proposed rule change is to make a technical correction to the minimum variation for securities traded both on the American Stock Exchange ("Amex") and CHX. Specifically, rather than using a minimum variation of $\frac{1}{16}$ for securities trading above 25¢, the $\frac{1}{16}$ variation will be used for securities traded at or above 25¢.

The proposed rule change will only be effective until such time as the Commission approves SR-CHX-97-13, a proposed rule change regarding general changes to the Exchange's Rules on trading variations.⁴

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act⁵ 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 believes the proposed rule change will not impose any burden on competition.

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

The Exchange has neither solicited nor received written comments.

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

⁴ Securities Exchange Act Release No. 28718 (June 5, 1997), 62 FR 32132 (June 12, 1997) (publishing notice of SR-CHX-97-13).

Bids or offers in stocks above one dollar per share shall not be made at a less variation than $\frac{1}{8}$ of one dollar per share; in stocks below one dollar but above $\frac{1}{2}$ of one dollar per share, at a less variation than $\frac{1}{16}$ of one dollar per share; in stocks below $\frac{1}{2}$ of one dollar per share, at a less variation than $\frac{1}{32}$ of one dollar per share . . . provided that the Exchange may fix variations of less than the above for bids and offers in specific issues of securities or classes of securities.

⁵ 15 U.S.C. 78f(b)(5).

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, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-97-16 and should be submitted by July 23, 1997.

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

The Commission finds that the proposed rule change 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 Section 6 and Section 11A of the Act.⁶ The CHX's proposal to conform its minimum increments to those of the Amex and the NYSE is reasonable because the Commission has previously found that the primary markets' trading variation are consistent with the Act. Thus, it is appropriate in this instance for the Exchange to match its competitors' minimum trading variations.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Exchange intended to conform its rule regarding minimum increments to those of the primary markets when it submitted its proposed rule change. This proposal rule change will enable the CHX to competitively quote such securities in the manner that it originally intended when it submitted its proposals. Requiring the Exchange to wait the full statutory review period for the proposed rule change would unnecessarily delay the implementation of the CHX's original intent. At the same time, the proposal is effective only until the Commission acts on File No. SR-CHX-97-13.⁷ This will provide the

⁶ 15 U.S.C. 78f(b) and 78k-1. In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* § 78c(f).

⁷ File No. SR-CHX-97-13 is a companion filing that requests permanent approval of the procedures described herein. Securities Exchange Act Release No. 28718 (June 5, 1997), 62 FR 32132 (June 12,

Commission with a sufficient period to receive and assess comments on SR-CHX-97-16. Therefore, the Commission believes it is consistent with Section 6(b)(5) and Section 19(b)(2) of the Act to grant accelerated approval on a temporary basis to the proposed rule change.⁸

V. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-CHX-97-16) is hereby approved on an accelerated basis until the Commission acts on File No. SR-CHX-97-13.

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

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38772; File No. SR-CHX-97-09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to an Amendment to Rule 37 of Article XX Concerning the Definition of Best Bid or Offer in the BEST and MAX Rules

June 25, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 9, 1997, as amended on June 24, 1997,² the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission

(1997). File Nos. SR-CHX-97-11 SR-CHX-97-12, and SR-CHX-97-14 are related filing whose effectiveness is linked to SR-CHX-97-13. See Securities Exchange Act Release Nos. 38704 (May 30, 1997), 62 FR 31467 (June 9, 1997) (approving File No. SR-CHX-97-11 on a temporary basis; reducing the trading increment from eighths to sixteenths for securities that are traded on the Exchange and on Nasdaq, 38717 (June 6, 1997), 62 FR 32134 (June 12, 1997) (approving File No., SR-CHX-97-12 on a temporary basis, reducing the trading increment from eighths to sixteenths for securities that are traded on the Exchange and on the NYSE), and 38719 (June 5, 1997), 62 FR 32131 (June 12, 1997) (approving File No. SR-CHX-97-14 on a temporary basis; a similar reduction in the trading increment for securities that are traded only on the Exchange).

⁸ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² On June 24, 1997 the CHX filed Amendment No. 1 to its proposal with the Commission. The amendment removes the words "size and price" from the definition of the best bid or offer. See letter from David T. Rusoff, Foley & Lardner to Ivette Lopez, Assistant Director, SEC (June 24, 1997).