

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).

("Commission") the proposed rule change as described in Items I, II, and III 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 Exchange proposes to amend Rule 37 of Article XX of the Exchange's Rules.

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

As described below, the purpose of the proposed rule change is to amend Rule 37 of Article XX (the BEST Rule and the MAX Rule) to correct the definitions of best bid or offer found throughout this Rule so as to reflect existing Exchange practice.

Definition of Best Bid and Offer

The Exchange's BEST Rule (Art. XX, Rule 37(a)) currently states that, subject to certain exceptions, all agency market orders are guaranteed an execution on the basis of the best bid disseminated pursuant to SEC Rule 11Ac1-1³ on a sell order or the best offer disseminated pursuant to SEC Rule 11Ac1-1 on a buy order (collectively, the national best bid or offer ("NBBO")). While the NBBO is utilized for NASDAQ/NM Securities traded on the Exchange, the Exchange has always utilized the Intermarket Trading System best bid or offer ("ITS BBO")⁴ for Dual Trading System Securities (i.e., securities also traded on

the NYSE or the Amex). As a result, instead of using the NBBO definition in the BEST Rule and MAX Rule,⁵ the Exchange believes that it is more accurate to describe the BEST Rule guarantee and the MAX Rule executions in terms of the ITS BBO for Dual Trading System issues.

This definitional change merely reflects an inadvertent error in the drafting of the BEST Rule and the MAX Rule and will not result in any systems changes.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5)⁶ of the Act, 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 that the proposed rule change will not 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 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 constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange pursuant to Section 19(b)(3)(A) of the Act⁷ and subparagraph (e) of Rule 19b-4 thereunder.⁸

At any time within 60 days of the filing of the proposed rule change,⁹ 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. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Chicago Stock Exchange. All submissions should refer to File No. SR-CHX-97-09 and should be submitted by July 23, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38777; File No. SR-CHX-97-6]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Listing and Trading Standards for Portfolio Depository Receipts

June 26, 1997.

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 March 17, 1997,¹

¹⁰ 17 CFR 200.30-3(a)(12).

¹ On June 4, 1997, the Exchange filed Amendment No. 1 to this rule filing. Amendment No. 1 serves to supersede entirely the Exchange's rule filing. Therefore, this notice incorporates Amendment No. 1 in its entirety. On June 17, 1997 and June 24, 1997, the Exchange filed Amendment Nos. 2 and 3 respectively; Amendment No. 3 replaces Amendment No. 2 in its entirety and the substance of Amendment No. 3 is incorporated into this

³ 17 CFR 240.11Ac1-1.

⁴ The ITS BBO is defined as the best bid/offer quote among the American, Boston, Cincinnati, Chicago, New York, Pacific, Philadelphia or the Intermarket Trading System/Computer Assisted Execution System quote, as appropriate.

⁵ The MAX Rule (Art. XX, Rule 37(b)) sets forth the procedures applicable to the automated execution of orders entered into the MAX System.

⁶ 15 U.S.C. 78f(b)(5).

⁷ U.S.C. 78s(b)(3)(a).

⁸ CFR 240.19b-4.

⁹ The 60 day abrogation period commences from June 24, 1997, the date of the submission of the substantive amendment.