

2000 information) to their SROs. The proposed rule change will help the CHX participate in coordinating Year 2000 testing, including industry-wide testing, and in remediating any potential Year 2000 problems. This, in turn, will help ensure that the industry-wide tests and the CHX's Year 2000 efforts are successful. The proposed rule change will also help the CHX work with its member firms, the SIA, and other SROs to minimize any possible disruptions the Year 2000 may cause.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 submissions, 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 CHX. All submissions should refer to File No. SR-CHX-98-32 and should be submitted by January 28, 1999.

#### V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act<sup>7</sup> that the proposed rule change is hereby approved on an accelerated basis.<sup>8</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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

<sup>8</sup> In approving the proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40843; File No. SR-CSE-98-04]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Cincinnati Stock Exchange, Inc. to Reduce the Exchange's Public Agency Guarantee Size

December 28, 1998.

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 October 26, 1998, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On November 13, 1998, 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 hereby proposes to amend the public agency guarantee in CSE Rules 11.9(c)(v) and (n) to reflect recent changes in market conditions. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

#### Rule 11.9. National Securities Trading System

(a) through (b) No Change.  
 (c)(i) through (c)(iv) No Change.  
 (c)(v) Guarantee the execution up to [2099] 1099 shares at the opening price of opening public agency market orders and limit orders which are priced better than such opening price. If there exist two or more Designated Dealers in a Designated Issue, then, unless the Securities Committee has approved one member as the primary Designated

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

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

<sup>3</sup> See Letter from Adam W. Gurwitz, Vice President Legal and Corporate Secretary, CSE, to David Sieradzki, Staff Attorney, SEC, dated November 12, 1998. ("Amendment No. 1"). In Amendment No. 1, CSE proposed to change Rule 11.9 (c)(v) to reduce the execution guarantee at the opening price of public agency market orders and limit orders. Additionally, CSE requested that Section 8 of its rule filing be amended to reference the relevant rules regarding the public order guarantee levels of the Philadelphia Stock Exchange, Inc., the Boston Stock Exchange, Inc., and the Pacific Exchange, Inc.

Dealer in that issue, the guarantee obligation shall rotate among such Designated Dealers on a daily basis.

(d) through (m) No Change.

(n) Public Agency Guarantee

(1) Public agency opening market orders and limit orders better than the opening price which are entered prior to the opening up to [2099] 1099 shares shall be executed at the opening price.

(2) through (3) No Change.

(4) Subject to the requirements of the short sale rule, orders must be filled on the basis of the ITS BBO bid on a sell order or the ITS BBO offer on a buy order. Sell orders will be satisfied up to the size of the lesser of the ITS BBO bid or [2099] 1099 shares; buy orders up to the lesser of the ITS BBO offer or [2099] 1099 shares. No portion of an order larger than [2099] 1099 shares is subject to the public agency guarantee.

(5) through (6) No Change.

(o) through (v) No Change.

\* \* \* \* \*

#### 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 CSE 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 defined in Item IV below. The CSE 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

Exchange Rules 11.9(c)(v) and (n) provide an execution guarantee for public agency market and marketable limit orders. Because the Exchange employs a multiple competing specialist system, this execution obligation rotates among the specialists in a particular issue. The specialist upon whom the public agency obligation falls is called the Designated Dealer of the day.<sup>4</sup> Currently, the Designated Dealer of the day is required to satisfy public agency orders up to the size of the lesser of the national best bid (for a sell order) or offer (for a buy order) ("NBBO") or 2099 shares. No portion of an order larger than 2099 shares is subject to the guarantee.

The Exchange proposes to lower the maximum order size of its public agency

<sup>4</sup> See CSE Rules 11.9(a)(3) and 11.9(c)(iv).

guarantee in light of recent changes in market conditions. The National Market System generally began quoting and trading securities in increments smaller than  $\frac{1}{8}$  of \$1.00 starting in the spring of 1997.<sup>5</sup> The move to  $\frac{1}{16}$ ths and record volume levels conceivably could be accentuating rapid price changes and market movements. In response to this changed environment, the proposed rule change would lower the size of the public agency guarantee to the lesser of the NBBO or 1099 shares. The public agency guarantee would otherwise remain unchanged. The Exchange notes that this new level would bring the CSE's public agency guarantee more in line with the guarantees of other exchanges<sup>6</sup> and believes the proposed rule change will restore a balance between the exposure its specialists face in a more volatile trading environment and the need to provide the best possible execution for public investors.

## 2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade and 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. Specifically, the proposed rule change will balance the risks incurred by the Exchange's specialists in a more volatile trading environment with the need to

<sup>5</sup> See e.g., Securities Exchange Act Release No. 38678 (May 27, 1998), 62 FR 30363 (June 3, 1997) (Order granting approval to proposed rule change to decrease the minimum quotation increment for certain securities listed and traded on the Nasdaq Stock Market to  $\frac{1}{16}$ th of \$1.00).

<sup>6</sup> The Pacific Exchange ("PCX") guarantees execution of agency market orders up to 1099 shares for automatic execution both prior to the opening at the primary market opening price and during daily trading at the P/COAST quote (best bid and ask available through ITS) or better. Telephone conversation between Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, and John Roeser, Attorney, Division of Market Regulation, SEC on Nov. 10, 1998. See also PCX Rules 5.25(a) and 5.25(c). Pursuant to Philadelphia Stock Exchange ("Phlx") Rule 229.06, agency market orders up to 1099 shares entered prior to the opening will be executed at the New York market opening price. Agency market and limit orders up to 1099 shares (or such greater size as the specialist agrees to accept) entered prior to and after the opening will either be executed in accordance with the Professional Execution Standards in Rule 229.10(b) or automatically executed in accordance with the procedures set forth in Rule 229.05. See Phlx Rules 229.05, 229.06, and 229.10. The Boston Stock Exchange ("BSE") guarantees execution of agency market and marketable limit orders entered prior to and after the opening up to 1299 shares. See BSE Rules Chapter II § 33(a) and § 33.01.

ensure proper execution of public agency orders.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### 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

Within 35 days of the 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, including whether the proposed rule change is consistent with the Act. 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 in the Commission's Public Reference Room. 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-98-04 and should be submitted by January 28, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 99-301 Filed 1-6-99; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 40592A; File No. SR-NASD-98-77]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Central Registration Depository Fees; Correction

December 29, 1998.

In FR Document 98-28849, beginning on page 57718, for Wednesday, October 28, 1998, several sections of the proposed rule were incorrectly stated. The following sections of Item I on page 57718 should read as follows:

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

\* \* \* \* \*

#### Section 2--Fees

\* \* \* \* \*

(b) [Each member shall be assessed a fee of \$85.00 for each application filed with the Association for registration of a registered representative or registered principal. Additionally, each member shall be assessed a surcharge of \$95.00 for registrations involving a special registration review filed with the Association.]

*The NASD shall assess each member a fee of:*

(1) *\$85.00 for each initial Form U-4 filed by the member with the NASD for the registration of a representative or principal, except that [The] the following discounts shall apply to the filing of [applications] Forms U-4 to [re-register or] transfer the registration of [registered persons] representatives or [registered] principals in connection with acquisition of all or a part of a member's business by another member:*

\* \* \* \* \*

(2) *\$40.00 for each initial Form U-5 filed by the member with the NASD for the termination of a registered representative or registered principal, plus a late filing fee of \$80.00 if the member fails to file the initial Form U-5 within 30 days after the date of termination;*

<sup>7</sup> 17 CFR 200.30-3(a)(12).