III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act.[6] In particular, the Commission finds the proposal is consistent with Section 6(b)(5)[7] of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Commission believes that the proposal is consistent with the Act because it provides flexibility to CBOE member firms while still providing for investor protection. In particular, the proposal provides flexibility to CBOE members and their associated persons by allowing them to create options worksheets that match the investment objectives of their clients. At the same time, however, the proposal provides for investor protection by continuing the requirement that a registered options principal first approve the worksheet before its use.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CBOE–99–27) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 00–4556 Filed 2–25–00; 8:45 am]
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SECURIIES AND EXCHANGE COMMISSION

[Release No. 34-42442; File No. SR–CHX–99–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Price Improvement for Securities That Trade in Minimum Variations of 1/64th of $1.00

February 18, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on October 20, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange

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[6] In addition, pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).
[9] 17 CFR 200.30–3(a)(12).
[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19–4.

Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 Items of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Rule 37, Article XX, governing price improvement, to add an algorithm providing for price improvement in the case of issues trading in minimum variations of 1/64th of $1.00. Specifically, the Exchange proposes to amend Article XX, Rule 37, adding section 37(g). The text of the proposed rule change is as follows: Additions are *italicized.*

ARTICLE XX

Regular Trading Sessions

* * * * *

Guaranteed Execution System and Midwest Automated Execution System

Rule 37.

(g) *Derivative SuperMAX*
Derivative SuperMAX shall be a voluntary automatic execution program within the MAX System. Derivative SuperMAX shall be available for securities that trade on the Exchange in minimum price variations of 1/64th of $1.00. A specialist may choose to enable this voluntary program within the MAX system on a security-by-security basis. If Derivative SuperMAX has been enabled for a particular security and the maximum order has been set at an amount that is less than or equal to 599 shares (or such greater amount designated by the specialist and approved by the Exchange), Derivative SuperMAX shall be automatically enabled. If the security is eligible for Derivative SuperMAX and the specialist in such security has chosen to engage Derivative SuperMAX for such security, all small agency market orders in that security will automatically be executed in accordance with the Derivative SuperMAX algorithm set forth below. For purposes of this subsection (g), the term "small agency market order" small mean an agency order from 100 shares up to and including 599 shares (or such greater amount designated by the specialist and approved by the Exchange).
(1) *Pricing.*
(a) *If a small agency market order to buy or sell is received in a security in which Derivative SuperMAX is enabled, such order shall be executed at the ITS Best Offer (for a buy order) or the ITS*

Best Bid (for a sell order) if (i) the spread between the ITS Best Bid and the ITS Best Offer in such security at the time the order is received is less than 1/64th of a point, or (ii) the order does not meet the criteria set forth in (b) below.

(b) *If a small agency market order to buy or sell is received in a security in which Derivative SuperMAX has been enabled, and the spread between the ITS Best Bid and the ITS Best Offer in such security at the time the order is received is greater than or equal to 1/16th of a point, such order shall be executed at 1/64th of a point lower than the ITS Best Offer (for a buy order) or 1/64th of a point higher than the ITS Best Bid (for a sell order).*

(2) *Operating Time.*
Derivative SuperMAX will operate each day that the Exchange is open for trading from 8:45 a.m. (Central Time) until the close of a Primary Trading Session. A specialist may enable or remove Derivative SuperMAX for a particular security only on one given day each month, as determined by the Exchange from time to time. Notwithstanding the previous sentence, during unusual market conditions, individual securities or all securities may be removed from Derivative SuperMAX with the approval of two members of the Committee on Floor Procedure.

(3) *Timing.*
Orders entered into Derivative SuperMAX shall be immediately executed (i.e., without any delay) upon completion of the algorithm.

(4) *Other.*
Any eligible order in a security included in Derivative SuperMAX, which is manually presented at the specialist post by a floor broker must also be guaranteed an execution by the specialist pursuant to the criteria set forth in (1) above. In the event that a contra side order which would better a Derivative SuperMAX execution is presented at the post, the incoming order which is executed pursuant to the Derivative SuperMAX criteria must be adjusted to the better price.

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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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 primary purpose of the proposed rule change is to afford specialists a viable means of offering customers price improvement for securities that trade in minimum variations of 1⁄64.

A. *Background.* On May 22, 1995, the Commission approved a proposed rule change to adopt CHX Rule 37(d), Article XX, to allow Exchange specialists, through the Exchange's MAX system, to provide order execution guarantees that are more favorable than those required under CHX Rule 37(a), Article XX.[3] That approval order contemplated that CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options under the rule.

Presently, three existing CHX programs within the MAX system, SuperMAX, Enhanced SuperMAX and Super MAX Plus, use computerized algorithms to provide automated price improvement. The Commission approved each of these price improvement programs on a permanent basis.[4] These programs were created for securities that trade in minimum variations of 1⁄16 to provide for price improvement of 1⁄16 of a point when the spread is 1⁄8 or greater.

Under this proposal, the CHX would add a new program, Derivative SuperMAX, as a fourth program within the MAX system, to provide for price improvement for securities trading in minimum variations of 1⁄64. The Exchange believes that it is important to remain competitive in an increasingly technologically advanced marketplace with an influx of new products trading in minimum variations of 1⁄64. In order to do so, the Exchange is proposing Derivative SuperMAX, a new price improvement algorithm that will afford CHX specialists the opportunity to offer customers price improvement for all securities at the minimum increment,

even those securities that trade in 1⁄64 increments.

B. *Proposal.* As stated above, the Exchange proposes to create a new price improvement algorithm, to be called Derivative SuperMAX. Derivative SuperMAX will become part of the existing voluntary price improvement programs in which specialists may choose to participate. Participation will be on a security-by-security basis and will be limited to securities that trade in minimum variations of 1⁄64 of $1.00.

Under Derivative SuperMAX, which would be available only for those securities trading in minimum variations of 1⁄64 of $1.00, small agency market orders (*i.e.,* orders from 100 shares up to and including 599 shares (or such greater amount designated by the specialist and approved by the Exchange)) would be eligible for price improvement if the market for the security is quoted with a spread of 1⁄16 of a point or greater. The new algorithm would provide 1⁄64 of a point price improvement from the ITS BBO. However, under the proposal, if a superior priced order was manually presented at the specialist's post, the incoming order to be executed pursuant to Derivative SuperMax would have to be executed at the superior price.

C. *Timing of Effectiveness of System Changes.* The addition of Derivative SuperMAX would become operative shortly after approval of this proposed rule change, on a date to be determined by the Exchange. The Exchange will announce this date in a Notice to Members issued within 30 days of the date of Commission approval of the proposed rule change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[5] in that it is designed to promote just and equitable principles of trade, to remove impediments and to 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 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

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, 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 20549–0609. 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 Room. Copies of such filings sill also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–99–24 and should be submitted by March 20, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 00–4557 Filed 2–25–00; 8:45 am]
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[3] *See* Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995)(order granting approval to File No. SR–CHX–95–08).

[4] *See* Securities Exchange Act Release Nos. 40017 (May 20, 1998), 63 FR 29277 (May 28, 1998) and 40235 (July 17, 1998), 63 FR 40147 (July 27, 1998) (File No. SR–CHX–98–9) (orders approving revised SuperMAX and Enhanced SuperMAX algorithms); 41480 (June 4, 1999), 64 FR 32570 (June 17, 1999) (order approving revised SuperMAX Plus algorithm).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).