

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42463; File No. SR-CHX-00-02]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated to Extend the Effective Dates of its Extended Trading Hours Session

February 28, 2000.

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 February 23, 2000, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</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 Proposal

On October 13, 1999, the Commission approved, on a pilot basis through March 1, 2000, a new Article XXA and amendments to existing CHX rules that allowed the CHX to implement a new extended hours trading session (the "E-Session").<sup>6</sup> The CHX is submitting this proposal solely to ask the Commission to extend the operation of the E-Session through October 1, 2000.<sup>7</sup>

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposal

In its filing with the Commission, the CHX included statements concerning

the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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

In SR-CHX-99-16, the Exchange proposed new CHX Article XXA and several related rule changes to implement the E-Session. The E-Session was designed to meet the needs of market participants and CHX members who had demanded that the Exchange begin trading in hours that extend beyond the then-current trading day. The Exchange continues to believe that investors are best served if registered securities exchanges are participants in the burgeoning after-hours trading market, and submits this proposal to extend the operation of its E-Session. The Exchange does not propose to make any other changes to its E-Session at this time; this proposal seeks only to extend the E-Session's operation through October 1, 2000.

*The Operation of the E-Session.* The E-Session began on October 29, 1999, and operates from 3:30 p.m. Central Time (immediately following the close of the CHX's post primary trading session) to 5:30 p.m. Central Time, Monday through Friday.<sup>8</sup>

Trading during the E-Session is conducted, in some respects, as it is during the CHX's primary trading session; however, new features more fully automate the transmission of orders and provide additional protections to investors who trade during the session. Only unconditional limit orders are eligible for execution in the E-Session, and each limit order must be appropriately designated for trading in the E-Session. Any orders remaining unexecuted at the end of the session are automatically canceled, and do not carry over to any other trading session. Specialist firms continue to make two-sided, continuous markets in E-Session eligible stocks, generally the more active stocks assigned to them during the existing trading sessions, at their posts on the floor of the CHX (unless a specialist firm has transferred its

assignment, for the E-Session only, to another specialist firm with the approval of the Committee on Specialist Assignment and Evaluation).

During the E-Session, in most cases (subject to an exception described below), limit orders must be electronically and directly transmitted, via the Midwest Automated Execution System ("MAX") electronic order routing system, to the specialist's limit order book. Floor brokers may route limit orders to the specialist's limit order book via MAX or may transmit the orders to another market. In addition, a floor broker may route orders to buy and sell equivalent quantities of the same security eligible to be executed at the same price through MAX to the specialist's limit order book or may execute those orders as a crossing transaction at the specialist's post in accordance with existing Exchange rules.

Except as described in Article XXA or in other E-Session rule amendments, execution, reporting, clearance and settlement of transactions that occur during the E-Session follow the procedures currently in place for those activities in the Exchange's primary trading session.<sup>9</sup> Among other things, this general principle means that the National Securities Clearing Corporation clears the transactions that take place during this session and the Securities Industry Automation Corporation and Nasdaq, Inc. disseminate CHX quotations and trade data. Three exceptions to this general rule arise from either the Exchange's desire to more fully automate the E-Session or from the fact that no primary market of the kind that characterizes trading during normal hours is available during the E-Session.<sup>10</sup>

*Securities Eligible for Trading During the E-Session.* The CHX's Committee on Floor Procedure identifies, from time to time, the securities eligible for trading during the e-Session. In general, the securities listed on the Standard & Poor's 100 Stock Index (OEX) and on the Nadsaq-100 Index (NDX), as well as other securities that rank among the 100 most active listed and 100 most active

<sup>9</sup> The amendments to CHX Article XX, Rule 1 (Application [of Article]) and CHX Article XXI, Rule 1 (Reporting of Transaction) confirm that these rules encompass transactions that occur during the E-Session.

<sup>10</sup> The amendments to CHX Article XX, Rule 37 (conforming that the Best System and the automatic execution features of MAX do not operate during the E-Session), CHX Article XXXI, Rules 6 and 9 (confirming that odd-lot order execution occurs differently than during the primary trading session) and CHX Article XXXIV (confirming that market makers do not participate in the E-Session) reflect these exceptions.

<sup>8</sup> The amendments to CHX Article IX, Rule 10(b) (Business Days and Hours of Trading) and CHX Article XX, Rule 2 (Hours of Floor Dealing) confirm the existence of this new trading session.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The Exchange provided the Commission with written notice of its intent to file the proposal on February 15, 2000, pursuant to Rule 19b-4(f)(6). 17 CFR 240.19b-4(f)(6).

<sup>6</sup> See Securities Exchange Act Release No. 42004 (October 13, 1999), 64 FR 56548 (October 20, 1999) (SR-CHX-99-16).

<sup>7</sup> The CHX authorized Commission staff to make minor technical changes to the proposal, to clarify that the proposal's sole purpose is to extend the operation of the E-Session through October 1, 2000. Telephone conversation between Ellen J. Neely, Vice President and General Counsel, CHX, and Joseph P. Morra, Attorney, Division of Market Regulations, SEC, February 25, 2000.

Nasdaq/NM securities at the end of each quarter trade during the e-Session. Currently, 311 securities are eligible for trading during the E-Session.

*Members Eligible to Participate in the E-Session.* All CHX members have access to the E-Session, in accordance with applicable CHX rules.

*Mandatory Disclosures To Non-Members.* Because the E-Session operates in a manner, and at a time, that is different from the CHX's primary trading session, members must provide specific disclosures to non-members before accepting orders for execution in the E-Session. These disclosures are designed to ensure that participants in the after-hours market understand the potential risks of that participation.

*Surveillance and Oversight.* The Exchange surveils E-Session trading using many of the same surveillance programs it uses to monitor trading during the primary trading session. E-Session order delivery, quoting and matching is almost entirely controlled by the CHX's electronic systems. These systems reduce the possibility for intentional or inadvertent mishandling of orders and enhance the effectiveness of the surveillance programs. According to the CHX, E-Session surveillance has operated effectively during the first six months of after-hours trading.

*Procedures for Reviewing Capacity, Security and Contingency Planning.* The CHX uses many of the same review procedures for systems security, capacity management, and recovery and contingency planning that it employs for the systems that support the primary trading session.

## 2. Statutory Basis

The proposed extension of the operation of the E-Session is consistent with Section 6(b)(5) of the Act<sup>11</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to, 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 of Burden on Competition*

The Exchange believes that no burden will be placed on competition as a result of the proposed extension of the effective dates of the E-Session. Indeed, the Exchange believes this new session has fostered competition in the after-hours trading arena by permitting investors to trade on a registered securities exchange, rather than through

an electronic communications network or alternative trading system.

### *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**

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and
- (iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> At any time within 60 days of the filing of the proposed rule change, 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.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds that it is appropriate to designate the proposal to become operative today because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the CHX to operate its E-Session without interruption through October 1, 2000, and to continue providing investors who wish to trade after-hours with the option of trading on a registered securities exchange. For these reasons, the Commission good cause to designate that the proposal become operative today.<sup>14</sup>

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Copies of the submission,

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 CHX. All submissions should refer to file number SR-CHX-00-02 and should be submitted by March 27, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

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

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-42473; File No. SR-ISE-00-02]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC Relating to its Fee Schedule**

February 29, 2000.

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 February 25, 2000, the International Securities Exchange LLC (the "Exchange" or the "ISE") 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 ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.<sup>3</sup>

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

The ISE proposes to adopt fees to be imposed on members of the Exchange.

<sup>15</sup> 17 CFR 200.30b-3(a)(12).

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

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

<sup>3</sup> The Commission notes that proposed rule changes relating to fees usually are filed pursuant to Section 19(b)(3)(A) and subparagraph (f) of Rule 19b-4 thereunder. Because the ISE is a new exchange, however, the Commission has determined that publishing the proposed rule change for notice and comment is appropriate.

<sup>11</sup> 15 U.S.C. 78f(b)(5).