SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43175; File No. SR–CHX–00–24]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc., Relating to the Exchange's SuperMAX Plus Price Improvement Program and Amendment No. 1 Thereto

August 18, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder[2] notice hereby is given that on July 21, 2000, the Chicago Stock Exchange, Inc. (''CHX'' 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 August 8, 2000, the Exchange filed Amendment No. 1 to the proposal.[3]

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

The Exchange proposes to amend the current CHX rule governing its SuperMAX Plus price improvement program. Specifically, the Exchange proposes to amend Article XX, Rule 37(d) to provide for additional price improvement opportunities, by deleting the requirement that the last primary market sale be at least 1⁄16th of a point away from the ITS Best Bid or Offer (''ITS BBO''). The text of the proposed rule change is available upon request from the Commission or the CHX.[4]

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

On May 22, 1995, the Commission approved a proposed CHX rule change that allows specialists on the Exchange, 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.[5] That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options under this new rule.

SuperMAX, Enhanced SuperMAX, SuperMAX Plus and Derivative SuperMAX are four existing CHX programs within the MAX system that use computerized algorithms to provide automated price improvement.[6] The primary purpose of this proposed rule change is to increase the number of orders that are eligible for SuperMAX Plus price improvement.

The Exchange believes that it is important to remain competitive by increasing, where possible, opportunities for price improvement and by responding in a swift and meaningful fashion to the price improvement considerations articulated by the Exchange's order sending firms and their customers. To this end, the Exchange proposes the following change to its SuperMAX Plus price improvement program.

Under the current version of SuperMAX Plus, agency market orders of 100–199 shares for Dual Trading System issues[7] are eligible for automatic price improvement of 1⁄16th of a point if: (a) The spread between the ITS Best Bid and ITS Best Offer is 1⁄8th of a point or greater; and (b) the last primary market sale is at least 1⁄16th of a point away from the ITS Best Bid or Offer (''BBO''). The proposal would delete the conditions relating to last primary market sales and thereby increase the number of orders eligible for price improvement.[8]

If approved, the amended SuperMAX Plus algorithm would become operative when systems changes are implemented in late August or early September. The Exchange will announce the effective date of this new algorithm in a Notice to Members.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5)[9] of the Act 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 of 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 Regarding the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. 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 submission 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, 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

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Ellen J. Neely, Vice President and General Counsel, CHX, to Jennifer Colihan, Attorney, Division of Market Regulation, Commission, dated August 7, 2000. (''Amendment No. 1'') In Amendment No. 1, the Exchange revised the proposed rule language for clarity. No substantive changes were made.

[4] Certain provisions of Article XX, Rule 37(d) are the subject of a CHX submission currently pending before the Commission as part of the CHX's decimalization-related rule filings. *See* SR–CHX–00–22 (filed July 17, 2000).

[5] *See* Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995) (File No. SR–CHX–95–08).

[6] Each of these price improvement programs has been approved by the Commission on a permanent basis. *See* Securities Exchange Act Release Nos. 40017 (May 20, 1998), 63 FR 29277 (May 28, 1998); 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); and 42565 (March 22, 2000), 65 FR 16442 (March 28, 2000) (order approving Derivative SuperMAX algorithm).

[7] Dual Trading System issues are issues that are traded on the Chicago Stock Exchange and either the New York Stock Exchange or the American Stock Exchange.

[8] After this change, the SuperMAX Plus algorithm would provide equivalent levels of price improvement for Dual Trading System and Nasdaq/NM issues. Nasdaq/NM issues are already entitled to price improvement under this algorithm if the spread between the National Best Bid and National Best Offer is 1⁄8th of a point or greater, without reference to the last sale in another market.

[9] 15 U.S.C. 78f(b)(5).

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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–00–24 and should be submitted by September 15, 2000.

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

The Exchange believes the accelerated implementation of the amended SuperMAX Plus algorithm will insure to the benefit of investors by providing a greater number of investors with an enhanced opportunity for price improvement, and has therefore requested that the Commission grant accelerated approval of the proposed rule change. After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange,[10] and that accelerated approval is appropriate.

Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[11] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

The Commission believes that the proposed SuperMax Plus price improvement algorithm will provide investors with enhanced investment opportunities because price improvement from the ITS BBO will be available regardless of the last primary market sale price in both Dual Trading System issues and Nasdaq NM securities. The Commission notes that while SuperMax Plus is a voluntary program that specialists choose to participate in, providing a greater number of investors an opportunity to achieve price improvement is compatible with the views expressed in the Order Handling Release.[12] Because price improvement should encourage small investor participation in the securities market without sacrificing investor protection and the public interest, 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**.

It Is Therefore Ordered, pursuant to Section 19(b)(2)[13] of the Act that the proposed rule change (SR–CHX–00–24) be, and hereby is, approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–21745 Filed 8–24–00; 8:45 am]

BILLING CODE 8010–01–M

[10] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation.

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Securities Exchange Release No. 37619A (September 6, 1996), FR 48290 (September 12, 1996).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43176; File No. SR–NASD–00–17]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Minimum Quotation Size Requirements for OTC Equity Securities

August 18, 2000.

I. Introduction

On April 10, 2000, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, a proposed rule change that would modify the minimum quotation sizes for securities quoted on the OTC Bulletin Board (''OTCBB''), or any other inter-dealer quotation system that permits quotation updates on a real-time basis, at a price exceeding $200 per share. The proposal was published for comment in the **Federal Register** on June 7, 2000.[3] The Commission received no comments on the proposal. This order approves Nasdaq's proposed rule change.

II. Description of the Proposal

Currently, NASD Rule 6750 provides that every member firm that functions as a market maker in over-the counter (''OTC'') equity securities must honor its quotations for those securities in certain minimum sizes. Quotes for OTC securities priced over $200 per share must be firm for blocks of 50 shares or more.[4] Nasdaq has stated that this rule has had an undesired and detrimental effect on the transparency and liquidity of certain highly priced or thinly traded securities.

Rule 6750 was originally approved by the Commission in 1993[5] during the early stages of the OTCBB service. Prior to implementation of the rule, all priced quotations on the OTCBB were required to be firm for blocks of 100 shares or more. This approach soon proved unworkable for lower priced securities for which a quote of 100 shares could represent an insignificant aggregate dollar value commitment to the market.

To remedy this situation, the NASD implemented the minimum quotation size rule for securities priced at $200 per share and below on a ''graduated'' or ''tiered'' basis.[6] For securities quoted at 50 cents per share or less, the market maker quoting such security is now required to honor that quotation for a minimum of 5000 shares. This approach was extended up to $200 per share, with different minimum quotation sizes at 2500, 500, 200, and 100 shares. For all quotations exceeding $200 per share, the minimum quote size was determined to be 50 shares.

However, the presence of the highly priced securities on the OTC market was not considered when Rule 6750 was originally proposed.[7] A situation has resulted in which market makers have been unwilling to enter priced quotations for highly priced and thinly traded securities for fear of incurring potentially significant liability to their proprietary accounts. Nasdaq states that, to alleviate the risk of posting a firm quote for 50 of these shares, market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42852 (May 30, 2000), 65 FR 36191.

[4] However, Rule 6750 also provides that certain Nasdaq officers may modify the minimum quotation size for OTC securities with a price greater than $200 per share.

[5] *See* Securities Exchange Act Release No. 32570 (July 1, 1993), 58 FR 36725 (July 8, 1993).

[6] This requirement applies only to market makers entering priced quotations. Market makers are permitted to enter unpriced indications of interest into the OTCBB, *see* NASD Rule 6520, which are not held to the minimum quotation size standard.

[7] For example, since January 2000, 246 OTC equity securities have traded in excess of $200 per share, and five of these securities have traded in excess of $10,000 per share. Telephone conversation between Scott W. Anderson, Attorney, Nasdaq, and Michael Gaw, Attorney-Adviser, Commission, on August 17, 2000.