

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44000; File No. SR-CHX-00-27]

### Self-Regulatory Organization; Order Granting Accelerated Approval of a Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Participation in Crossing Transactions Effected on the Exchange Floor

February 23, 2001.

#### I. Introduction

On September 14, 2000, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change relating to participation in crossing transactions effected on the exchange floor. The CHX amended the proposal on January 18, 2001.<sup>3</sup> The **Federal Register** published the proposed rule change, as amended, for comment on February 2, 2001.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposal on an accelerated basis.

#### II. Description of Proposal

The Exchange proposes to amend Article XX, Rule 23 of the Exchange's rules relating to participation in crossing transactions in Nasdaq/National Market ("NNM") securities effected on the floor of the Exchange. This proposal is currently operating, on a pilot basis through February 28, 2001, for Dual Trading System issues traded on the Exchange.<sup>5</sup> This pilot was approved in connection with the securities industry's move to a decimal pricing environment. The proposed rule

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

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

<sup>3</sup> See Letter dated January 16, 2001, from Kathleen M. Boege, Associate General Counsel, CHX, to Alton S. Harvey, Office Head, Division of Market Regulation, Commission ("Amendment No. 1"). Amendment No. 1 requests pilot approval of the proposed rule change through July 9, 2001.

<sup>4</sup> Securities Exchange Act Release No. 43882 (January 24, 2001), 66 FR 8819.

<sup>5</sup> Dual Trading System issues are issues that are listed on either the New York Stock Exchange or the American Stock Exchange. See Securities Exchange Act Release No. 43203 (August 24, 2000), 65 FR 53067 (August 31, 2000) (approving SR-CHX-00-13 on a pilot basis through February 28, 2001). The proposed rule change deletes the provisions of Article XX, Rule 23 that govern cross transactions in NNM issues, and, thus, has the effect of also extending the pilot program in Dual Trading System issues until July 9, 2001.

change would extend the pilot to cover crossing transactions in NNM securities.

Under current CHX Rule 23, if a floor broker presents a crossing transaction involving NNM issues, another member may participate, or "break up," the transaction, by offering (after presentation of the proposed crossing transaction) to better one side of the transaction by the minimum price variation. The floor broker is then effectively prevented from consummating the transaction as a "clean cross." In instances where the minimum price variation is relatively small, it is very inexpensive for a member to break up crossing transactions in this matter.

Under the proposed pilot program, a floor broker will be permitted to consummate cross transactions in NNM issues, as well as Dual Trading System issues, involving 5,000 shares or more, without interference by any specialist or market maker if, prior to presenting the cross transaction, the floor broker first requests a quote for the subject security.<sup>6</sup> These requests will place the specialist and other market makers on notice that the floor broker is intending to "cross" within the bid-offer spread. The proposed rule change will operate on a pilot basis through July 9, 2001.

#### III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.<sup>7</sup> Specifically, the Commission finds that the proposed rule change is consistent with the section 6(b)(5)<sup>8</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.<sup>9</sup>

The Commission believes that the proposed rule change strikes a reasonable balance between the ability of floor brokers on the Exchange to execute crossing transactions and the ability of specialists and market makers to provide price improvement. In addition, the Commission believes that requiring floor brokers to request a quote in a particular security before

<sup>6</sup> These updated quotes will not be directed solely to the floor broker. Anyone at the post may respond to the updated quotes.

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> In approving this rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

presenting the transaction to be crossed will provide specialists and market makers both sufficient notice that the cross is about to occur between the bid and offer spread and an opportunity to improve their quote. The Commission notes that floor brokers would still retain the ability to present both sides of the order at the post if the customers so desire.

The Commission believes that it is consistent with the protection of investors and the public interest and therefore 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 proposed rule change is designed to minimize possible negative effects on crossing transactions of decimal pricing, which is scheduled to begin in NNM securities on March 12, 2001. In addition, the Commission notes that the proposed rule change is being approved on a pilot basis only, through July 9, 2001. In light of these factors, the Commission finds good cause to approve the proposed rule change on an accelerated basis.

#### IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-CHX-00-27), as amended, is approved through July 9, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

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

[FR Doc. 01-5248 Filed 3-2-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44003; File No. SR-NASD-01-10]

### Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Requiring Conversion to Decimals of Open Fractional Orders in Nasdaq Securities

February 26, 2001.

#### I. Introduction

On January 29, 2001, 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

<sup>10</sup> 17 CFR 200.30-3(a)(12).