consideration pursuant to Section 19(b)(2) of the Act.[56]

Finally, the Commission notes that this approval order marks the official end of the decimalization phase-in plan, established in the June 2000 Order. Any antitrust immunity conferred upon the Participants by the June 2000 Order is terminated as of the effective date of this order.[57]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[58] that the proposals SR–Amex–2002–02, SR–BSE–2002–02, SR–CBOE–2002–02, SR–CHX–2002–06, SR–CSE–2002–02, SR–ISE–2002–06, SR–NASD–2002–08, SR–NYSE–2002–12, SR–PCX–2002–04, and SR–Phlx–2002–05 be and hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[59]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–19666 Filed 8–2–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46274; File No. SR–CSE–2001–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Cincinnati Stock Exchange, Inc. Amending CSE Rule 12.6, Customer Priority, to Require Designated Dealers to Better Customer Orders at the National Best Bid or Offer by Whole Penny Increments

July 29, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 30, 2001, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On April 22, 2002, the CSE filed Amendment No. 1 to the proposal.[3] On April 26, 2002, the CSE filed Amendment No. 2 to the proposal.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change for a pilot period until September 30, 2002.

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

The Exchange proposes to amend CSE Rule 12.6, Customer Priority, by adding new Interpretation .02, which will require a CSE Designated Dealer (''Specialist'') to better the price of a customer limit order that is held by that Specialist if that Specialist determines to trade with an incoming market or marketable limit order. Under the rule, the Specialist will be required to better a customer limit order at the NBBO by at least one penny and at a price outside the current NBBO by at least the nearest penny increment. The Exchange is requesting approval of the proposed rule change on a pilot basis, through September 30, 2002. The text of the proposed rule change is set forth below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Chapter XII

Rule 12.6 Customer Priority

(a)–(c) No change.

Interpretations and Policies:

.01—No change.

.02(a)—A Designated Dealer shall be deemed to have violated Rule 12.6 if, while holding a customer limit order (as rounded to a penny increment) representing the NBBO, the Designated Dealer, for his own account, trades with an incoming market or marketable limit order at a price which is less than one penny better than the price of such customer limit order (not the quoted price) held by such Designated Dealer.

.02(b)—A Designated Dealer shall be deemed to have violated Rule 12.6 if, while holding a customer limit order (as rounded to a penny increment) at a price outside the current NBBO, the Designated Dealer, for his own account, trades with an incoming market or marketable limit order at a price which is less than the nearest penny increment to the actual price of the customer limit order (not the quoted price) held by such Designated Dealer.

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 on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 Exchange proposes to amend Exchange Rule 12.6[5] by adding an interpretation to the rule covering the trading of Nasdaq National Market (''NNM'') and SmallCap securities in subpenny increments.[6] New Interpretation .02 to the Rule will require a Specialist to better the price of a customer limit order held by the Specialist by at least one penny (for those customer limit orders at the

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[56] 15 U.S.C. 78s(b)(2).

[57] In issuing the June 2000 Order, the Commission instructed the Participants to act jointly in planning, discussing, developing, and submitting to the Commission the Plan, as discussed herein. *See supra* note 1. The June 2000 Order did not address: (a) any joint or other conduct that occurred prior to the issuance of the June 2000 Order or prior orders; and (b) any joint or other conduct occurring after June 8, 2000, that was not ordered or requested by the June 2000 Order.

[58] 15 U.S.C. 78s(b)(2).

[59] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b-4.

[3] In Amendment No. 1, the CSE requested that the proposal be converted to pilot status and that the pilot expire on September 30, 2002. *See* Letter from Jeffrey T. Brown, Senior Vice President and General Counsel, CSE, to Katherine England, Assistant Director, Division of Market Regulation (''Division''), SEC (April 19, 2002).

[4] In Amendment No. 2, the CSE requested that additional proposed rule language be added to the proposal so that the rule would apply in instances when the customer limit order is not at the national best bid or offer (''NBBO''), rather than just instances when the customer limit order is at the NBBO. *See* Letter from Jeffrey T. Brown, Senior Vice President and General Counsel, CSE, to Katherine England, Assistant Director, Division, SEC (April 25, 2002).

[5] CSE Rule 12.6 provides, in pertinent part, that no member shall (i) personally buy or initiate the purchase of any security traded on the Exchange for its own account or for any account in which it or any associated person of the member is directly or indirectly interested while such a member holds or has knowledge that any person associated with it holds an unexecuted market or limit price order to buy such security in the unit of trading for a customer, or (ii) sell or initiate the sale of any such security for any such account while it personally holds or has knowledge that any person associated with it holds an unexecuted market or limit price order to sell such security in the unit of trading for a customer.

[6] In conjunction with this proposed rule change, the CSE is requesting that the Commission grant exemptive relief pursuant to Rules 11Ac1–1(e)(17 CFR 240.11Ac1–1(e)), 11Ac1-2(g) (17 CFR 240.11Ac1–2(g)) and 11Ac1–4(d) (17 CFR 240.11Ac1–4(d)) to allow subpenny quotations to be rounded down (buy orders) and rounded up (sell orders) to the nearest penny for quote dissemination (''Exemptive Request''). *See* Letter to Annette Nazareth, Director, Division of Market Regulation (''Division''), Commission, from Jeffrey T. Brown, General Counsel, CSE (November 27, 2001).

NBBO) or by at least the nearest penny increment (for those customer limit orders that are not at the NBBO) if the Specialist determines to trade with an incoming market or marketable limit order.[7]

The purpose of the new Interpretation is to prevent a Specialist from taking unfair advantage of customer limit orders held by that Specialist by trading ahead of such orders with incoming market or marketable limit orders. Notwithstanding the fact that a Specialist may price-improve incoming orders by providing prices superior to that of customer limit orders it holds, customers should have a reasonable expectation to be filled at their limit order prices. This expectation should be reflected in reasonable access to incoming contra-side order flow, unless other customers place better-priced limit orders with the Specialist or the Specialist materially improves upon the customer limit order prices (not the customers' quoted prices) it holds.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, 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 Exchange requests that this rule be approved on a pilot basis until September 30, 2002, to be co-extensive with: (a) The conditional temporary exemptive relief requested in the Exemptive Request [10]; (b) the Chicago Stock Exchange's (''CHX's'') similar pilot related to customer limit order protection;[11] and (c) the National Association of Securities Dealers, Inc.'s similar pilot related to customer limit order protection.[12]

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. 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 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 Exchange. All submissions should refer to File No. SR-CSE–2001–06 and should be submitted by August 26, 2002.

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

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,[13] and, in particular Section 6(b)(5) of the Act.[14]

Simultaneous with the filing of this proposal, the Commission received a request for exemptive relief submitted by the Exchange that would allow the Exchange, Exchange members, and vendors that disseminate Exchange quote information to display and disseminate their quotes for NNM and SmallCap securities in penny increments, while trading in sub-penny increments.[15] By letter dated July 26, 2002, the Division, pursuant to delegated authority under Rules 11Ac1–1(e),[16] 11Ac1–2(g),[17] and 11Ac1–4(d)[18] under the Act, granted a conditional temporary exemption to the Exchange, Exchange members, and vendors that disseminate CSE quote information to permit them to display and disseminate their quotes for NNM and SmallCap securities in rounded, penny increments without a rounding identifier.[19] The exemption expires September 30, 2002. The Commission believes that the proposed rule change should help to provide protection to customer limit orders in the subpenny trading environment by helping to ensure that such orders will continue to have access to market liquidity ahead of Exchange Specialists in appropriate circumstances.

The Commission finds good cause for approving the proposed rule change on a pilot basis prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval to the proposed rule change will allow the Exchange to continue to provide protection to customer limit orders in subpenny increments for NNM and SmallCap securities. Moreover, the Commission believes that approving the proposal on an accelerated basis should help to ensure fair competition among the CSE, the CHX, and the Nasdaq Stock Market, Inc.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR-CSE–2001–06) is hereby approved on an accelerated basis for a pilot period ending on September 30, 2002.

[7] Interpretation .01 to Rule 12.6 provides that ''[i]f a Designated Dealer holds for execution on the Exchange a customer buy order and a customer sell order that can be crossed, the Designated Dealer shall cross them without interpositioning itself as a dealer.''

[8] 15 U.S.C. 78f(b).

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

[10] *See* Letter from Robert L.D. Colby, Deputy Director, Division, Commission, to Jeffrey T. Brown, General Counsel, CSE (July 26, 2002) (''Exemptive Relief Letter''). The letter outlines several other conditions to trading in subpenny increments. The Commission will examine data provided by the CSE as specified in the Exemptive Relief Letter and information provided by all self-regulatory organizations as required by the Commission's order concerning decimals implementation. *See* Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000). The Commission intends to reconsider the position expressed in its letter (July 26, 2002) before the expiration of the exemption on September 30, 2002.

[11] *See* Exchange Act Release No. 45755 (April 15, 2002), 67 FR 19607 (April 22, 2002).

[12] *See* Exchange Act Release No. 45762 (April 16, 2002), 67 FR 19787 (April 23, 2002).

[13] In granting approval of the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Exemptive Request, *supra* note 6.

[16] 17 CFR 240.11Ac1–1(e).

[17] 17 CFR 240.11Ac1–2(g).

[18] 17 CFR 240.11Ac1–4(d).

[19] *See* Exemptive Relief Letter, *supra* note 10.

[20] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–19616 Filed 8–2–02; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Review Under 49 U.S.C. 41720 of United/US Airways Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice requesting comments.

SUMMARY: United Air Lines and US Airways have submitted agreements to the Department for review under 49 U.S.C. 41720. That statute requires certain types of agreements between major U.S. passenger airlines to be submitted to the Department at least thirty days before the agreements' proposed effective date but does not require Department approval for the agreements. The Department may extend the waiting period for either or both of the United/US Airways agreements at the end of the thirty-day period or take other appropriate action. The Department is inviting interested persons to submit comments that would assist the Department in determining whether further action should be taken.

DATES: Any comments should be submitted by August 15, 2002.

ADDRESSES: Comments must be filed with Randall Bennett, Director, Office of Aviation Analysis, Room 6401, U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file three copies of its comments.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: Congress enacted a provision, 49 U.S.C. 41720, that requires certain kinds of joint venture agreements among major U.S. passenger airlines to be submitted to the Department at least thirty days before they can be implemented. This requirement covers code-sharing agreements, long-term wet leases involving a substantial number of aircraft, and agreements concerning frequent flyer programs. The requirement would also cover certain other significant cooperative working arrangements designated by regulation. By publishing a notice in the **Federal Register**, we may extend the waiting period by 150 days with respect to a code-sharing agreement and by sixty days for the other types of agreements covered by the advance-filing requirement. At the end of the waiting period (either the thirty-day period or any extended period implemented by us), the parties are free to implement their agreement. We may also allow the joint venture agreement to be implemented before the thirty-day waiting period expires.

The statute does not require the parties to obtain our approval before they implement an agreement. To block two airlines from implementing an agreement, we would normally need to issue an order under 49 U.S.C. 41712 (formerly section 411 of the Federal Aviation Act) in a formal enforcement proceeding that determines that the agreement's implementation would be an unfair or deceptive practice or unfair method of competition that would violate that section.

We have not adopted regulations expanding the scope of the filing requirement or establishing procedures for our review of agreements submitted under 49 U.S.C. 41720.

In the past we have informally conducted the reviews authorized by 49 U.S.C. 41720. The airline parties to a joint venture agreement have filed the agreement directly with the Department staff that reviews them, we have not established a docketed proceeding on any such agreement, and we have not sought comments from other parties. In determining whether to extend the waiting period (or start a formal proceeding under section 41712), we have focused on whether the agreement would reduce competition. Our review is analogous to the review of major mergers and acquisitions conducted by the Justice Department and the Federal Trade Commission under the Hart-Scott-Rodino Act, 15 U.S.C. 18a, since we are considering whether we should institute a formal proceeding for determining whether an agreement would violate section 41712. We consult the Justice Department as part of our review, and we avoid unnecessary duplication of efforts by the Justice Department and this Department. If an agreement appears to violate the antitrust laws, the Justice Department may file suit and seek injunctive relief against the parties to the agreement.

On July 25 United and US Airways submitted code-share and frequent flyer program reciprocity agreements for review under 49 U.S.C. 41720. We still intend to conduct an informal review, but, due to the public interest in these agreements, we want to give interested persons an opportunity to submit comments. The views of outside parties may assist us in determining whether to extend the waiting period and whether either agreement presents serious issues under section 41712.

Since the statute requires us to decide within thirty days of filing to determine whether to extend the waiting period, we request that any comments be filed by August 15. To assist the commenters, United and US Airways have prepared a redacted copy of the agreements that will be available for review and copying in room PL–401 of the Nassif Building, located in the northeast corner on the Plaza level, 400 7th St. SW., Washington, DC. We are making the copy available there, even though this case is not docketed, because it is readily accessible to the public and has a copying machine for public use.

Issued in Washington, DC on August 1, 2002.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 02–19810 Filed 8–1–02; 2:33 pm]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice For Waiver Of Aeronautical Land-use Assurance Capital Airport, Springfield, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use and to authorize the sale/exchange of the airport property. The proposal consists of Parcel 16–3–F1, a 3.169 acre portion of Parcel 16–3–F, and Parcel 14–1, a 0.636 acre portion of Parcel 14. Presently the land is vacant an used as open land for control of FAR Part 77 surfaces and compatible land use and is not needed for aeronautical use, as shown on the Airport Layout Plan. Parcel 16–3–F (57.17 acres) was acquired in 1970 with partial Federal participation. Of the original 57.17 acres, 44.46 acres was purchased with Federal Participation. 12.71 acres of the original 57.17-acre parcel have been

[21] 17 CFR 200.30–3(a)(12).