

filings to Web CRD will enable the Exchange to perform more efficiently its regulatory responsibilities with respect to members and member organizations and, thereby, will ultimately enhance investor protection.

The proposed amendments to Exchange Rules 340 and 341 and the adoption of Exchange Rule 359 are intended to facilitate the transfer of all required Forms U-4 and U-5 filings to Web CRD. The changes provide that the filing of Forms U-4 and U-5 with a duly authorized designee of the Exchange (*i.e.*, NASD) would constitute submission to the Exchange. The proposed amendments also would eliminate references to the Membership Services Division that would become obsolete with the implementation of filing with Web CRD.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>5</sup> in general, and the provisions of section 6(b)(5) of the Act,<sup>6</sup> in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, 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.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in 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*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6)<sup>8</sup> thereunder because the proposal: (1) Does not significantly affect the protection of investors or the public

interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change or the Commission waives such prior notice. At any time within 60 days of the filing of such 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.<sup>9</sup>

## 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 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-Amex-2003-48 and should be submitted by July 23, 2003.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48086; File No. SR-CHX-2003-08]

### **Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating To Execution of Resting Limit Orders Following a Primary Market Block Trade-Through**

June 25, 2003.

On March 24, 2003, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to eliminate the requirement that a CHX specialist fill resting limit orders at the block price following a block trade trade-through in the primary market.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on May 13, 2003.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.<sup>5</sup> Specifically, the Commission finds that the proposal is consistent with the requirements of section 6(b) of the Act,<sup>6</sup> in general, and section 6(b)(5) of the Act,<sup>7</sup> in particular, which requires that the rule of the Exchange be 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

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

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

<sup>3</sup> If, however, a specialist is representing an order in his or her quote that is traded through by a block trade from another market, and the specialist receives satisfaction from the other market, the specialist must give the higher price to the customer order. Further, because specialists may wish to continue filling such limit orders at the block price as a customer service accommodation, the proposed rule change would permit a CHX specialist to continue to have the option to engage an existing functionality of the Exchange's MAX automatic execution system that automatically executes designated limit orders at the block price when a block size trade-through occurs in the primary market.

<sup>4</sup> See Securities Exchange Act Release No. 47800 (May 6, 2003), 68 FR 25667.

<sup>5</sup> In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> See section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

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

general, to protect investors and the public interest.

The Commission believes that eliminating the requirement that a CHX specialist fill resting limit orders at the block price following a block trade through in the primary market will permit specialists to handle block orders more quickly and efficiently. Based on representations by the Exchange, the Commission believes that this obligation was one the CHX assumed voluntarily in order to make its market more attractive to sources of order flow. The Commission believes that the business decision to potentially forego order flow by no longer requiring specialist to provide such protection to block orders is a judgment the Act allows the CHX to make.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-CHX-2003-08) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48097; File No. SR-ISE-2003-10]

### Self Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change by the International Securities Exchange, Inc., Relating to Its Obvious Error Rule

June 26, 2003.

#### I. Introduction

On February 28, 2003, the International Securities Exchange, Inc. ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 to amend ISE Rule 720 relating to obvious error transactions. On May 1, 2003, the ISE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The

proposed rule change, as amended, was published for comment in the **Federal Register** on May 15, 2003.<sup>4</sup> The Commission did not receive any comments on the proposed rule change. On June 10, 2003, the ISE filed Amendment No. 2 to the proposed rule change.<sup>5</sup> This order approves the proposed rule change, as amended, and notices and grants accelerated approval to Amendment No. 2.

#### II. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5)<sup>7</sup> of the Act, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.<sup>8</sup>

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an "obvious error" may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In addition, in the Commission's view, the determination of whether such an "obvious error" has occurred should be based on specific and objective criteria and subject to specific and objective procedures. The Commission believes

Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 30, 2003 ("Amendment No. 1"). In Amendment No. 1, the ISE replaced the proposed rule text in its entirety.

<sup>4</sup> See Securities Exchange Act Release No. 47817 (May 8, 2003), 68 FR 26336 (May 15, 2003) ("Notice").

<sup>5</sup> See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division, Commission, dated June 9, 2003 ("Amendment No. 2"). In Amendment No. 2, the ISE amended proposed Supplementary Material .07 to ISE Rule 720 to clarify the definition of "erroneous buy transaction."

<sup>6</sup> For a description of the proposed rule change, see Notice, *supra*, n.4.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

that the Exchange's proposed revisions to ISE Rule 720 establish specific and objective criteria for determining when a trade is an "obvious error." The Commission also believes that the proposed amendments establish specific and objective procedures governing the adjustment or nullification of such trade.

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 2 does not make any substantive changes to the proposed rule text. It simply clarifies that an "erroneous buy transaction" is one in which the price paid by the person purchasing the option is erroneously high. Therefore, the Commission believes that granting accelerated approval of Amendment No. 2 is appropriate and consistent with section 6(b)(5)<sup>9</sup> and section 19(b)<sup>10</sup> of the Act.

#### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Amendment No. 2, including whether Amendment No. 2 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 Amendment No. 2 that are filed with the Commission, and all written communications relating to Amendment No. 2 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 filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR-ISE-2003-10 and should be submitted by July 23, 2003.

#### IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal, as amended, is consistent with the Act and the rules and regulations thereunder. It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-ISE-2002-10), as amended, be, and hereby is, approved,

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>10</sup> 15 U.S.C. 78s(b)(1).

<sup>11</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy