

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 purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. 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-CHX-96-17 and should be submitted by August 14, 1996.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37442; File No. SR-CHX-96-18]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to an Extension of Its Pilot Program for Automatic Execution of Limit Orders

July 16, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on July 2, 1996, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been

prepared by the self-regulatory organization. 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.

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

The Exchange proposes to extend, until December 31, 1996, its system enhancement relating to the automatic execution of non-marketable limit orders,¹ and extend, until August 31, 1996, the deadline for filing a report to the Commission describing the Exchange's experience with the program. This system enhancement is the subject of a current Commission approval order, which is scheduled to expire on July 31, 1996.² The related report was due by May 31, 1996. A slightly modified version of this enhancement was originally approved by the Commission as a one year pilot program.³ The original one-year pilot program lapsed on April 13, 1994 without the Exchange filing for an extension or a permanent approval request.

The proposed system enhancement ("Auto-Ex") is a feature of the Exchange's automated execution system ("MAX") that CHX specialists may voluntarily choose to activate to automatically execute non-marketable limit orders⁴ on a specialist's book. Auto-Ex will operate by comparing the size of the CHX-entered limit order against the amount of stock ahead of that order in the primary market when the issue is trading in the primary market at the limit price. The Auto-Ex System will begin comparing CHX-entered limit orders when the limit price equals the bid or offer quoted in the primary market (as the case may be) for the first time.⁵ Thereafter, the Auto-

¹ A limit order is an order to buy or sell a stated amount of a security at a specified price or at a better price.

² See Securities Exchange Act Release No. 35962 (July 12, 1995) (File No. SR-CHX-95-11).

³ See Securities Exchange Act Release No. 32124 (April 13, 1993), 58 FR 21325 (approving File No. SR-MSE-92-03).

⁴ A limit order is called "marketable" when the prevailing best offer (bid) is equal to or less (greater) than the limit buy (sell) order price. CHX Rule 37(b)(7) provides for the automatic execution at the best bid or best offer disseminated pursuant to Rule 11Ac1-2 ("BBO") or better of all limit orders that are marketable when entered into the MAX system provided that such orders are of a certain size and otherwise are eligible for execution under a CHX Rule 37(a).

⁵ For example, if the primary market quotation is 1/4 bid, 1/2 offered, 4,000 shares bid and 4,000 shares offered, and a CHX specialist receives a limit order

Ex system will keep track of all prints in the primary market and will automatically execute the limit order once sufficient size prints in the primary market.⁶ As additional limit orders at the same price are received by the specialist, comparisons will be made and entered based upon the shares ahead of those limit orders at the time of receipt, including shares ahead on the CHX. The Auto-Ex feature will not permit a limit order to be filled out of sequence.

The Auto-Ex feature will execute limit orders in accordance with existing CHX rules. Auto-Ex will be available for all dually traded issues; however, specialists will be permitted to choose Auto-Ex on an issue by issue basis.⁷ Generally, however, Auto-Ex will be used for issues which, based on experience, have demonstrated reliable and accurate quotes in the primary market. Limit orders not subject to Auto-Ex will be "flagged" with a prompt to alert the specialist that a fill may be due. The proposal to establish an Auto-Ex feature applies only to non-marketable limit orders. It is not applicable to marketable limit orders or to market orders.

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 self-regulatory organization 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 self-regulatory organization has

to buy 2,000 shares for 1/8, that limit order will not be compared against the amount of stock ahead of the order in the primary market until such time as the 1/4 bid is exhausted and the 1/8 bid becomes the best bid. At that time, the size which is disseminated with the 1/8 bid is the size against which the limit order is compared for Auto-Ex purposes.

⁶ For example, assume a CHX specialist receives an agency limit order to buy 2,000 shares of ABC at 1/2. The primary market quotation is 1/2 bid, 3/4 offered, 5,000 shares bid and 5,000 shares offered, meaning there are 5,000 shares ahead of the CHX order. The Auto-Ex system will automatically execute the entire CHX limit order after 7,000 shares print at 1/2 in the primary market. However, when more than 5,000 but less than 7,000 shares print at 1/2 in the primary market, the order will be flagged with a flashing prompt to alert the specialist that the order may be due at least a partial fill. See CHX Article XX, Rule 37(a) governing primary market protection of certain limit orders.

⁷ The CHX will limit a specialist's ability to activate and then deactivate Auto-Ex regularly by: (1) only permitting a specialist to deactivate Auto-Ex on a certain day each month and (2) requiring that issues remain on Auto-Ex for a minimum of five trading days.

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 purpose of the proposed rule change is to extend the Auto-Ex System for six months, until December 31, 1996, and extend, until August 31, 1996, the deadline for providing the Commission with the related report. The extension of the pilot program is requested in order to provide the Exchange with additional time to prepare the report to the Commission. The extension of the deadline for the report is requested because specialists only began using the Auto-Ex System in April 1996. Without an extension, the Exchange would not have meaningful data for its report to the Commission.

The Auto-Ex System further automates the CHX's trading floor functions in order to improve the CHX's performance in filling limit orders. By providing for automatic execution of limit orders in accordance with existing Exchange rules, the CHX is eliminating the need for the manual operation required of specialists in determining when and to what extent limit orders are due fills based on primary market prints. The manual effort expended by specialists in filling limit orders that are entitled to primary market protection is often time-consuming and can result in errors, particularly when there is heavy trading volume. The present proposal, therefore, directly benefits customers because it results in more timely fills while eliminating errors resulting from manual execution.

The Auto-Ex feature does not change or amend any CHX trading rules, nor does it cause or allow limit orders to be filled under different parameters than under existing rules. Auto-Ex only automates the manner in which limit orders are filled. The CHX will continue to monitor specialist execution of limit orders through the Market Regulation/Surveillance Department. In addition, CHX specialists will continue to be responsible for their books to the same degree as they are now under the manual execution system for limit orders.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) 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. In this regard, Auto-Ex should help to speed execution of non-marketable limit orders on the CHX and may reduce the possibility of missed orders during periods of heavy trading volume.

The proposed rule change is consistent with the requirements of Section 11A(a)(1)(C) of the Act in that the proposal is designed to contribute to the best execution of investors' orders while assuring the economically efficient execution of transactions, which in turn protects the public interest and promotes fair and orderly markets. In this regard, incoming orders subject to Auto-Ex, just as any other CHX order entitled to primary market protection, should receive the best execution available because a print on the primary market at the limit price triggers execution on the CHX. In addition, the Exchange's implementation of Auto-Ex should assure fair competition among exchange markets, which benefits public investors.

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

The proposed rule change will impose no burden on competition.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-CHX-96-18 and should be submitted by August 14, 1996.

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 requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) of the Act. Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5) 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. The Commission believes that the proposed rule change to provide for the automatic execution of non-marketable limit orders should result in prompt execution of such orders on the Exchange and reduce errors caused by manual execution of limit orders that are entitled to primary market protection, especially during periods of heavy trading volume.

In the order approving the pilot procedures,⁸ the Commission expressed concern about the Exchange specialists' discretion with respect to which stocks will be executed automatically through Auto-Ex, and whether manually-executed orders and Auto-Ex orders would receive differential treatment. Therefore, the Commission asked the Exchange to study the effects of the pilot and address the above-stated concerns, as well as other points specified in the Commission's order.⁹ At this time, the Exchange requests that the point be extended beyond its expiration date of July 31, 1996 so that the Exchange may gather meaningful data for its report to the Commission. The Exchange states that the delay in producing the report is due in part to the fact that the specialists only began to use the Auto-Ex System in April 1996. The Commission finds that it would be reasonable to allow the Exchange to have additional time to gather the data requested and produce the report to the Commission. Accordingly, the Commission will extend the deadline for providing the Commission with the report to August 31, 1996. Moreover, the Commission believes it would be appropriate to

⁸ See Securities Exchange Act Release No. 35962, *supra* note 2.

⁹ *Id.*

extend the pilot program until December 31, 1996 so that investors may continue to receive the benefit of automatic execution of non-marketable limit orders from Auto-Ex while the Commission evaluates carefully the information provided by the Exchange and considers whether to approve the pilot program permanently.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the Exchange proposes to continue using the identical procedures of the pilot program that were published in the Federal Register for the full comment period and were approved by the Commission. Any requests to modify this pilot program, to extend its effectiveness, or to seek permanent approval for the pilot also should be submitted to the Commission by October 15, 1996 as a proposed rule change pursuant to Section 19(b) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CHX-96-18) is hereby approved on a pilot basis until December 31, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37451; File No. SR-MSTC-96-03]

**Self-Regulatory Organizations;
Midwest Securities Trust Company;
Notice of Filing and Immediate
Effectiveness of Proposed Rule
Change Relating to Return of
Participants Fund Contributions**

July 17, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 18, 1996, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I, II, and III below, which Items have been prepared primarily by MSTC. On July 2, 1996, MSTC amended the proposed rule change to make a technical correction.²

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 Proposed Rule Change

MSTC proposed to notify those participants whose accounts are closed and who have provided properly executed indemnification agreements of a deferral of the final distribution of their participants fund deposits for sixty days, until August 15, 1996. A notice will be sent to all participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC 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 IV below. MSTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.³

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On January 5, 1996, the Commission approved a proposed rule change filed by MSTC, which called for termination of MSTC services as of January 15, 1996.⁴ On February 20, 1996, MSTC filed with the Commission a proposed rule change, which was effective upon filing, relating to, among other things, the procedures to be used by MSTC with respect to the liquidation of the MSTC participants fund.⁵ An attachment to the proposed rule change set forth a schedule for the return of participant fund deposits. However, such attachment expressly provided that the schedule was subject to the right of MSTC to retain funds if necessary in its view to fund possible contingent liabilities. Because MSTC has not yet completed a wind-down of its operations, contingent liabilities may

still exist. Therefore, pending completion of the wind-down, MSTC intends to postpone the final distribution of participant fund contributions for sixty days, until August 15, 1996.

MSTC believes the proposed rule change is consistent with Section 17A(b)(3)(F)⁶ of the Act because it will facilitate the prompt and accurate clearance and settlement of securities transactions and will assure the safeguarding of securities and funds which are in MSTC's custody or control or for which MSTC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

MSTC has neither solicited nor received written comments on 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)(i)⁷ of the Act and Rule 19b-4(e)(1)⁸ promulgated thereunder because the proposal constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of MSTC. At any time within sixty days of the filing of such 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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

² Letter from David T. Rusoff, Foley & Lardner, to Peter Geraghty, Division of Market Regulation, Commission (July 2, 1996).

³ The Commission has modified the text of the summaries prepared by MSTC.

⁴ For a complete description of MSTC's withdrawal from the securities depository business, refer to Securities Exchange Act Release No. 36684 (January 9, 1996), 61 FR 1195 [File No. SR-MSTC-95-10] (order approving proposed rule change).

⁵ Securities Exchange Act Release No. 36965 (March 13, 1996), 61 FR 11456 [File No. SR-MSTC-96-02] (notice of filing and immediate effectiveness of proposed rule change).

⁶ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

⁷ 15 U.S.C. § 78s(b)(3)(A)(i) (1988).

⁸ 17 CFR 240.19b-4(e)(1) (1995).

¹⁰ 15 U.S.C. § 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1) (1988).