

and \$1,000 for subsequent offenses. The Exchange believes the amount of the fines will be sufficient to ensure attendance. However, in the event members refuse to attend even after being assessed a fine, as with all Minor Rule violations, the Exchange has the discretion to refer violations to the Business Conduct Committee pursuant to Chapter XVII of the Exchange's Rules.

2. Statutory Basis

The proposed rule change will give the Exchange the ability to provide for a more professional and informed membership and is therefore consistent with and furthers the objectives of Section 6(b)(5) of the Act² in that it is 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 to protect investors and the public interest.

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

CBOE 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

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, 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, 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the file

number (SR-CBOE-98-12) and should be submitted by June 18, 1998.

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

The Commission finds that the CBOE's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that, consistent with Section 6(b)(5) of the Act,³ requiring members and those associated with members to attend continuing education classes on such topics as professional conduct and the operation of new technology will both promote just and equitable principles of trade and benefit investors. Moreover, the Commission finds that mandating continuing education training for members and persons associated with members is consistent with the provisions of Section 6(c)(3)(B) of the Act, which makes it the responsibility of an exchange to prescribe standards of training, experience, and competence for persons associated with self-regulatory organization members.

The Commission therefor finds good cause for approving the proposed rule change prior to the thirtieth day after date of publication of notice of filing thereof in the **Federal Register**.⁴

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁵ that the proposed rule change (SR-CBOE-98-12) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40016; File No. SR-CHX-98-5]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Utilization of Exempt Credit by Market Makers

May 20, 1998.

I. Introduction

On February 18, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder.² In the filing, the CHX proposed amendments to an interpretation to Article XXXIV, Rule 16 relating to registered market makers' utilization of exempt credit. Notice of the proposed rule change was published in the **Federal Register** on April 8, 1998.³ The Commission received no comments on the proposal.

II. Description of the Proposal

Interpretation .01 to Article XXXIV, Rule 16 notes that "[e]xchange members registered as equity market makers are members registered as specialists for purposes of [the Act] and as such they are entitled to obtain exempt credit for financing their market maker transactions."⁴ The Interpretation also sets forth certain parameters that market makers must satisfy to obtain such exempt credit. The Interpretation specifies that 50% of the quarterly share volume that creates or increases a position in a market maker account must result from transactions consummated on the Exchange or sent from the Exchange floor for execution in another market via the Intermarket Trading System ("ITS"). The proposed rule change modifies this Interpretation by eliminating the reference to "creating or increasing a position," thereby including all transactions consummated

³ 15 U.S.C. 78f(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

⁴ In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 39822 (March 31, 1998), 63 FR 17248 (April 8, 1998).

⁴ The Board of Governors of the Federal Reserve System is authorized, pursuant to Section 7 of the Act, to establish initial margin requirements and credit restrictions on margin financing. 12 CFR 220 and 221. Generally, Regulation T limits to 50% the amount of financing extended to or by a broker-dealer to finance a securities position. 12 CFR 220.18. Bona fide market making activity, however, may be exempt from these credit restrictions.

² 15 U.S.C. 78f(b)(5).

on the Exchange or sent from the Exchange floor via ITS in determining a market maker's ability to use exempt credit.

In providing assistance in maintaining a fair and orderly market, a market maker may be required to decrease either a long or a short position in a particular security. Consequently, a market maker may, from time to time, engage in transactions that decrease its position. These transactions were not previously included in the calculation of transactions that qualify for exempt credit. The proposed rule change amends Interpretation .01 to Article XXXIV, Rule 16 to note that positions that decrease a position in a market maker account will be treated the same way as those that create or increase a position for purposes of determining whether a market maker has satisfied the 50% volume requirements needed to obtain exempt credit.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with Sections 6(b) and 11(b) of the Act.⁵ In particular, the Commission believes the proposal is consistent with the Section 6(b)(5)⁶ requirements 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 Commission believes, moreover, that the proposed rule change is consistent with the requirements of Section 11(b) and Rule 11b-1 thereunder⁷ that specialist (*i.e.*, market maker)⁸ transactions contribute to the maintenance of fair and orderly markets.

The Commission believes that registered market makers on the Exchange serve an important function inasmuch as they add depth and liquidity to the market for CHX-traded securities. Pursuant to Article XXXIV of the CHX Rules, market makers are subject to both affirmative and negative obligations,⁹ and, in return, are accorded certain privileges, including

exempt credit financing.¹⁰ For this reason, it is critical that only those members who are engaged in bona fide market making activities qualify for favorable margin treatment under the Exchange's rules. To the extent that transactions that decrease a position in a market maker account contribute to the depth and liquidity in the market for CHX-traded securities, the Commission believes that it is appropriate for the Exchange to conclude that such transactions constitute bona fide market making activity.

By including in the Exchange's exempt credit 50% minimum quarterly share volume requirements a greater number of transactions that contribute to the maintenance of fair and orderly markets, registered market makers are facilitated in their ability to finance transactions that provide market continuity and stability. Enhancements in the quality of the market CHX-traded securities in turn foster investor confidence and participation in the market. Accordingly, the Commission believes 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) and 11(b).¹¹

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change SR-CHX-98-05 be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40017; File No. SR-CHX-98-09]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Partial Temporary Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Amending the SuperMAX and Enhanced SuperMAX Algorithms

May 20, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 20, 1998, 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 and II 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, on a temporary basis, for a portion of the proposed rule change relating to a new SuperMAX algorithm.

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

The Exchange proposes to amend its SuperMAX and Enhanced SuperMAX programs, located in subsections (c) and (e) of Rule 37 of Article XX. Specifically, the Exchange is proposing new algorithms to provide price improvement under SuperMAX and Enhanced SuperMAX in 1/16th point markets. Below is the text of the proposed rule change, additions are italicized; deletions are bracketed.

(c) SuperMAX.

[The Exchange's SuperMAX program shall be an automatic execution program within MAX in which a Specialist may voluntarily choose to participate on a stock-by-stock basis. A Specialist shall decide if his or her stock will be eligible for SuperMAX treatment. In the event that a Specialist determines that his stock is eligible for SuperMAX and voluntarily chooses to participate in SuperMAX, small agency market orders in that stock will automatically be executed in MAX, through the SuperMAX program, without any Specialist intervention based on the following criteria (for purposes of this Rule, small market orders shall mean orders up to and including 599 shares, except for the 500 stocks listed in the

⁵ 15 U.S.C. 78f(b) and 78k(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 17 CFR 240.11b-1.

⁸ Under Article XXXIV, Rule 16, registered market makers are registered as specialists for purposes of the Act.

⁹ For example, under Article XXXIV, a registered market maker on the Exchange has the duty to maintain fair and orderly markets in assigned issues (Rule 1); the duty to execute at least 50% of quarterly share volume in assigned issues (Rule 3); and the duty to register separately for each security to be traded as a market maker (Rule 4).

¹⁰ Under the federal securities laws and the Exchange's Rules as set forth in Article XXXIV, market makers are also granted special treatment and exemptions from requirements regarding net capital, position financing, and short sales for transaction effected during the course of bona fide market making.

¹¹ In approving the rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78s(b).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).