

corresponding changes to the other price improvement algorithms will become operative immediately upon approval of this proposed rule change by the Commission; the Exchange expects to implement this change June 15, 1999.¹¹

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5)¹² of the Act 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, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change accomplishes these ends by increasing the number of trades that will receive automated price improvement.

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

The Exchange represents that 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, 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 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 Exchange. All

submissions should refer to File No. SR-CHX-99-04 and be submitted by July 8, 1999.

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

The CHX requests accelerated approval of the proposed rule change. The Commission has reviewed the CHX's proposed rule change and finds, for the reasons set forth below, that the proposal is consistent with the requirements of Section 6 of the Act¹³ and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act,¹⁴ which requires that the rules of an Exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating trisections in securities, 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.¹⁵ The Commission believes the new price improvement contemplated by the new SuperMax Plus will provide investors with enhanced investment opportunities because price improvement from the ITS BBO will be available if an execution at the ITS BBO would be at least 1/16th of a point higher than (for a buy order) or lower than (for a sell order) the last primary market sale, instead of the 1/8th requirement under SuperMax and Enhanced SuperMax. The Commission notes that while SuperMax Plus is a voluntary program that specialists choose to participate in for Dual Trading System issues, providing a greater number of investors an opportunity to achieve price improvement is compatible with the views expressed in the Order Handling release.¹⁶

Because provision of price improvement should enhance small investors participation in the securities market, without sacrificing investor protection and the public interest, the Commission therefore finds good cause for approving the proposed rule change

prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-CHX-99-04) is hereby on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-4182; File No. SR-CHX-99-3]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc., Concerning an Increase in the BEST Rule Guarantee and the Minimum Order Acceptance Level in the MAX System

June 4, 1999.

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 May 7, 1999, the Chicago Stock Exchange, Inc. ("CHX") or "the 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 Exchange. The filing was amended on May 26, 1999.³ The proposed rule change, as amended, has been filed by CHX as a "non-controversial" rule change under Rule 19b-4(f)(6)⁴ under the Act.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹ 15 U.S.C. 78s(b)(2).

² 17 CFR 200.3-3(a)(12).

³ 15 U.S.C. 78s(b)(1).

⁴ 17 CFR 240.19b-4.

⁵ See letter from Kirsten M. Carlson, Foley & Lardner, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated May 25, 1999 ("Amendment No. 1").

⁶ 17 CFR 240.19b-4(f)(6).

⁷ CHX originally filed this proposal under Rule 19b-4(e)(5). Amendment No. 1 amended this to Rule 19b-4(f)(6). As requested by CHX, the Commission will consider the original filing, dated May 6, 1999, as the pre-filing notice required by Rule 19b-4(f)(6). The Amendment No. 1 filing date (May 26, 1999) will be considered the formal filing date of the rule change.

¹¹ Conversation between David Rusoff, Foley & Lardner and Mandy Cohen, Senior Counsel, Division of Market Regulation, SEC on May 28, 1999.

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 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).

¹⁶ See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (File No S7-30-95).

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

The Exchange proposes to amend Rule 37 of Article XX of the Exchange's Rules to increase the size of the guarantee contained in the Best Rule and the minimum order acceptance level in the MAX System for all agency orders in Dual Trading System issues from 2099 to 5099 shares.⁶ The text of the proposed rule change is available at the CHX and at the Commission.

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

In its filing with the Commission, CHX 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. 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

Under the Exchange's Guaranteed Execution System (the "BEST System"), specialists must currently accept and guarantee execution of agency orders in Dual Trading System issues from 100 up to and including 2099 shares. Similarly, the Exchange's Midwest Automatic Execution System (the "MAX system") contains an auto-acceptance threshold parameter that is designated by the specialist on a stock-by-stock basis that must be set for 2099 shares or greater for Dual Trading System issues.

The proposed rule change would increase the Best Rule guarantee and the auto-acceptance threshold. Specifically, the rule change would require specialists to accept all agency orders in Dual Trading System issues from 100 up to and including 5099 shares, and require that the auto-acceptance threshold parameter be set for 5099 shares or greater for all Dual Trading System issues.

The Exchange believes that the larger size guarantees will benefit customers by providing customers with better executions. Further, the Exchange believes the larger size guarantees will

enhance the competitiveness of the Exchange by attracting additional order flow.

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act⁷ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, 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.

CHX 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder⁹ because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) by its terms, does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest; and (4) CHX provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date. 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.

The Exchange has requested that the Commission approve acceleration of the operative date of the proposal to June 11, 1999. The Exchange states that the increase of the BEST Rule Guarantee and auto acceptance threshold will benefit customers by providing better executions, and that accelerating the operative date will allow customers to receive this benefit earlier. The Exchange further states that it is technologically prepared to begin operations as soon as permitted by the Commission. The Commission finds that accelerating the operative date of the rule change as proposed is consistent with the protection of investors and the public interest, and thus designates June 11, 1999, as the operative date of the filing.

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, N.W., Washington, D.C. 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 CHX. All submissions should refer to File No. SR-CHX-99-3, and should be submitted by July 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 17 CFR 200.30-3(a)(12).

⁶ The increase to 5099 shares will become operative on a date specified in a Notice to Members to be issued in the immediate future.