

entered into the Exchange's Order Routing System at a time when the prevailing market bid or offer is equal to the best bid or offer on the Exchange's book, the order is routed electronically (*i.e.*, "kicked out") to a Floor Broker's terminal or work station in the crowd subject to the volume parameters of each firm. This allows for manual representation of the order in the crowd and generally prevents orders from trading through the book.⁸ The orders are kicked out because CBOE Rule 6.45 provides that bids or offers displayed on the customer limit order book are entitled to priority over other bids or offers at the same price.

To implement the Automated Book Priority system, the CBOE proposes to amend paragraphs (b) and (c) of CBOE Rule 6.8, "*RAES Operations in Equity Options*," to provide for RAES orders to trade directly against orders entered in the Exchange's customer limit order book. The Exchange also proposes to delete Interpretation .04 of CBOE Rule 6.8 which concerns how orders that have been kicked out pursuant to the current paragraph (c) should be handled.

The CBOE believes that the Automated Book Priority system will both prevent the RAES order from becoming subject to market risk and preserve the priority of the booked order. Thus, the proposed rule change will benefit customers using the RAES system as well as those whose orders are in the Exchange's book because both categories of orders will be executed more quickly than they would have been executed otherwise.

The Exchange anticipates that the Automated Book Priority system will be ready to be implemented by October 31, 1999.⁹ The Exchange will provide its membership with prior notice by means of a Regulatory Circular informing them of the date the system and the rule change will be implemented.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the

⁸ Currently, RAES orders in options on IBM, the Dow Jones Industrial Average (DJX), and the Standard & Poor's 100 Stock Index (OEX) may be executed on RAES even where the prevailing market bid or offer equals the best bid or offer on the Exchange's book. Upon the implementation of the Automated Book Priority system, RAES orders in these option classes, like all other option classes, will trade against orders in the book in these circumstances.

⁹ Telephone call between Timothy Thompson, Director, Regulatory Affairs, CBOE, and Joseph P. Corcoran, Attorney, Division, Commission, on August 25, 1999.

Act.¹⁰ In particular, the Commission finds the proposal is consistent with Section 6(b)(5)¹¹ of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Commission believes that the proposed rule change will benefit investors by allowing RAES orders to trade against orders in the Exchange's limit order book. Currently, when a RAES order is entered at a time when the prevailing market bid or offer is equal to the best bid or offer of the Exchange's limit order book, the order is kicked out into the crowd for manual execution. Although this generally prevents RAES orders from trading through the book, when a RAES order is kicked out to the crowd, it may become subject to market risk, which can be significant in a fast moving market. Moreover, the kick out feature is not employed for IBM, DJX, and OEX options, where RAES orders can trade through the book. The Commission finds that the implementation of this new system will provide for more efficient execution of both RAES and booked orders. Investors should benefit from more efficient executions, while the priority of booked orders is maintained.

Linking the Exchange's limit order book to the RAES system is important to ensure proper quality of execution of RAES orders and booked limit orders. Implementation is particularly important for limit orders on IBM, DJX, and OEX options, where booked orders may receive delayed or no execution. The Commission expects that the Exchange will take all reasonable steps necessary to implement the proposal by October 31, 1999.

The Commission finds good cause for approving Amendments No. 1 and No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 1, the CBOE merely clarified the text of the Exchange Rules to show the actual text of these rules as of the date the proposed rule change was submitted. In Amendment No. 2, the CBOE resubmitted the text of the Exchange Rules to show the text of these rules as amended by filing (SR-CBOE-99-17) that was approved by the Commission on August 23, 1999.¹² In addition, the CBOE explains that portions of the rule

¹⁰ In addition, pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

¹² See *supra* note 5.

text approved by SR-CBOE-99-17 will be removed by this proposed rule change. Therefore, the amendments did not substantively alter the proposal.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-CBOE-99-29), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42004; File No. SR-CHX-99-16]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of Proposed Rules Change and Amendment Nos. 1 and 2 by the Chicago Stock Exchange Relating to the Implementation of an Extended Hours Trading Session

October 13, 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 September 14, 1999, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CHX. On October 7, 1999, the CHX submitted Amendment No. 1 to the proposed rule change.³ On October 8, 1999, the CHX filed Amendment No. 2 to the proposed rule change.⁴ The

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, from Paul B. O'Kelly, Executive Vice President, Market Regulation and Legal, CHX, dated October 5, 1999 ("Amendment No. 1"). In Amendment No. 1, the CHX proposes to amend the initial filing to request that the Commission approve its proposed extended hours trading session on a pilot basis through March 1, 2000.

⁴ Letter to Katherine A. England, Assistant Director, Division, Commission, from Paul B. O'Kelly, Executive Vice President, Market Regulation and Legal, CHX, dated October 7, 1999 ("Amendment No. 2"). In Amendment No. 2, the CHX proposes that, although effective upon

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and to grant accelerated approval to the proposed rule change and Amendment Nos. 1 and 2 on a pilot basis through March 1, 2000.

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

The Exchange proposes to add new Article XXA to the Exchange's Rules to implement an extended hours trading session (the "E-SessionTM") on a pilot basis through March 1, 2000. The Exchange also proposes to amend the following rules to reflect changes to trading times and to various procedures that arise because of the E-Session: Article IX, Rule 10(b); Article XX, Rules 1, 2 and 37; Article XXI, Rule 1; Article XXXI, Rules 6 and 9; and Article XXXIV. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets;

Article XXA—Trading Rules and Procedures Applicable To Equity Trading During the Extended Trading Session

Introduction

The trading rules and procedures in this Article shall apply to trading conducted on the Exchange during the Extended Trading Session (the "E-Session"). Unless otherwise defined in this Article, capitalized terms used in this Article shall have the same meanings given them elsewhere in the Rules. Except where the context requires otherwise, the provisions of the Constitution and all other Rules and policies of the Board of Governors, including those that apply to trading conducted during the Primary Trading Session (the "PTS"), shall continue to be applicable to trading during the E-Session. If any rule in this Article is inconsistent with any other provisions of the Rules, the provisions of this Article shall control and shall be deemed to supplement or amend the inconsistent provisions.

Hours of Trading

Rule 1. The E-Session shall be conducted on the Floor of the Exchange, commencing immediately following the close of the Post Primary Trading Session (the "PPTS") and ending at 5:30 P.M. Central time, Monday through Friday; provided, however, that no E-Session will be conducted, or a

shortened E-Session will be conducted, on those days identified by the Board of Governors, in its discretion, from time to time. So long as the rules in this Article remain in effect, the Secondary Trading Session shall be discontinued.

Eligible Securities

Rule 2. Securities eligible for trading during the E-Session ("E-Session Eligible Securities") shall be selected, from time to time, by the Committee on Floor Procedure from the securities eligible for trading during the PTS.

E-Orders

Rule 3. Orders eligible to be entered in the E-Session on a given day ("E-Orders") shall consist of those orders received by the Exchange on that day that are designated as E-Orders in the manner specified by the Exchange. All E-Orders transmitted via MAX shall include the account type designators in Article XX, Rule 37(b)(9).

Unexecuted Orders

Rule 4. All E-Orders for E-Session Eligible Securities remaining unexecuted at the end of an E-Session shall automatically be canceled.

Specialist Firms

Rule 5. The specialist firm for a security traded in the E-Session shall be the specialist firm assigned to that same security in the PTS, unless that specialist firm, with the approval of the Committee on Specialist Assignment and Evaluation, has transferred the assignment to another specialist firm for purposes of the E-Session only. A specialist firm assigned to one or more securities in the E-Session may cease acting in that capacity only with the permission of the Committee on Specialist Assignment and Evaluation.

Co-Specialists

Rule 6. A specialist firm may designate any qualified co-specialists in its assigned securities for the E-Session, whether or not they are co-specialists for those same securities during the PTS. A co-specialist must maintain a continuous, two-sided market in each assigned security.

Preopening Orders

Rule 7. Preopening orders in all E-Session Eligible Securities will be eligible for a single price opening.

Manner of Making Bids and Offers

Rule 8. The only orders eligible to be entered during the E-Session are unconditional limit orders for E-Session Eligible Securities. These orders shall be electronically and directly transmitted,

via MAX, to the specialist's limit order book; except that Floor Brokers (1) may route limit orders via MAX to the specialist's limit order book or, where permissible, transmit them to another market; or (2) may, after receiving a limit order to buy and a limit order to sell an equivalent amount of the same security (a) execute the orders at the specialist's post pursuant to Article XX, Rule 23 or (b) route the orders via MAX to the specialist's limit order book. NASDAQ System market makers, acting in their capacities as market makers, shall have direct telephone access to the specialist post in each NASDAQ/NM Security in which that market maker is registered as market maker to transmit orders for execution on the Exchange.

Specialist's Books

Rule 9. The book of limit orders entered for execution in the E-Session shall be maintained by the specialist in the E-Session and shall be separate from the specialist's books of limit orders maintained for that same security in the PTS and the PPTS.

Trading Halts Due to Extraordinary Market Volatility

Rule 10. If trading in all securities on the Exchange is halted during the PTS pursuant to Article IX, Rule 10A, and such halt is still in effect at the close of the PTS, the Exchange shall cancel the E-Session scheduled for that day. Two floor officials may halt trading in any or all securities during an E-Session if they determine that such action is necessary to preserve a fair and orderly market. Once trading in a given security is halted, two floor officials may reopen trading in the halted security if they determine that a fair and orderly market shall ensue from such action.

Intermarket Trading System

Rule 11. The Intermarket Trading System ("ITS") shall be in operation any time during the E-Session when another participant market is open for trading.

Customer Disclosure

Rule 12. No member or member organization may accept an order from a non-member for execution in the E-Session without first disclosing to that non-member that: (1) orders for E-Session Eligible Securities are eligible only for a single E-Session and, if not executed during that E-Session, shall automatically be canceled; (2) unconditional limit orders are the only orders that are eligible for execution in the E-Session; (3) there is likely to be less liquidity during trading that occurs once normal trading hours have ended and, as a consequence, there may be

Commission approval, its proposed extended trading session will not be operational until October 29, 1999.

greater fluctuations in securities prices; and (4) distinct systems and facilities trade securities after normal trading hours have ended and, as a consequence, at any particular time, quotations and transaction prices for a security may vary among those systems.

Article IX—Trading Rules

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Business Days and Hours of Trading

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Rule 10(b) The Exchange will be open for business for three trading sessions during each business day.

The first trading session (the "Primary Trading Session") will be conducted on the floor of the Exchange (i) during the same hours the security is traded on its primary market, if the Exchange is not the primary market for such security, provided, however, if the primary market for such security is the Pacific Stock Exchange, the Primary Trading Session for that security shall end no later than 3 P.M. [p.m.] Central time, or (ii) from 8:30 A.M. to 3 P.M. Central time, Monday through Friday, if the Exchange is the primary market for such security. Notwithstanding the foregoing, trading in the Chicago Basket shall be conducted on the floor of the Exchange from 8:30 A.M. to 3:15 P.M., Central time, Monday through Friday.

The next trading session (the "Post Primary Trading Session") will be conducted on the floor of the Exchange for orders and securities designated as eligible for the Post Primary Trading Session, pursuant to Article XX, Rule 37. The Post Primary Trading Session shall be one-half hour after the close of regular trading on the primary market. In the event that trading on the Exchange is halted during the Primary Trading Session pursuant to Article XX, Rule 10A, and such halt is still in effect at the close of a Primary Trading Session, the Exchange will cancel the Post Primary Trading Session scheduled for that day.

The last session the "E-Session" shall be conducted on the floor of the Exchange, commencing immediately following the close of the Post Primary Trading Session and ending at 5:30 P.M., Central time, Monday through Friday; provided, however, that no E-Session will be conducted, or a shortened E-Session will be conducted, on those days identified by the Board of Governors, in its discretion, from time to time.

So long as the E-Session is being held, [(the ["Secondary Trading Session,(')"] which was [will be] conducted through the Portfolio Trading System, pursuant to the provisions of Article XXXV from

3:30 P.M. to 5 P.M., Central time, Monday through Friday, will be discontinued. [The Floor of the Exchange shall be closed during the Secondary Trading Session.]

In the event of a crisis, the chairman or the vice-chairman of the Board of Governors or the president may, with the prior approval of a governor from a member firm and a governor from the floor, suspend trading at any time during a session.

Article XX—Regular Trading Sessions Application

Rule 1. These Rules shall apply to all Exchange Contracts made on the Exchange during the Primary Trading Session, [and] the Post Primary Trading Session and the E-Session and, to the extent determined by the Exchange to be applicable, to Exchange Contracts not made on the Exchange.

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Hours of Floor Dealings

Rule 2. Except as provided in Article XX, no member or member organization shall make any bid, offer or transaction upon the Floor of the Exchange, issue a commitment to trade through ITS from the Floor, or send an order in a Nasdaq/NM Security for execution via telephone to a NASDAQ System market maker other than during the Primary Trading Session, [or] the Post Primary Trading Session or the E-Session, except that a specialist may issue and receive pre-opening notifications and pre-opening responses, pursuant to the provisions of the Plan relating to the Pre-Opening Application of the System, before the official opening of business of the Exchange and loans of money or securities may be made after those hours.

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Guaranteed Execution System and Midwest Automated Execution System

Rule 37.(a) Guaranteed Executions. The Exchange's Guaranteed Execution System (the BEST System) shall be available, during the Primary Trading Session and the Post Primary Trading Session, to Exchange member firms and, where applicable, to members of a participating exchange who send orders to the Floor through a linkage pursuant to Rule 39 of this Article, in all issues in the specialist system which are traded in the Dual Trading System and NASDAQ/NM Securities.

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Article XXI—Exchange of Contracts, Tickets and Comparisons Reporting of Transactions

Rule 1. The Exchange shall report all transactions executed on the Floor during the Primary Trading Session, Post Primary Trading Session, the E-Session or , when it is in operation, through the Portfolio Trading System. It shall be the duty of every member to advise the Exchange of each of his transactions as promptly as possible.

Article XXXI—Odd Lots and Odd-Lot Dealers, Dual System

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Dealer Required To Purchase All Odd Lots Offered

Rule 6. In any security in which he or it is registered as such, an odd-lot dealer shall be required, during the Primary Trading Session and the Post Primary Trading Session, to purchase all odd lots offered him or it by any member or member organization of the Exchange and he or it shall be required to sell to any member or member organization of the Exchange any odd lots bid for by such member or member organization.

Execution of Odd-Lot Orders During the Primary Trading Session

Rule 9.(a) Exclusive Issues. * * *

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Execution of Odd-Lot Orders During the E-Session

Rule 9a. During the E-Session, odd lot orders shall be handled according to the requirements of Article XXA, Rule 8.

Article XXXIV—Registered Market Makers—Equity Floor

Rule 1. A registered market maker shall only participate in transactions, while on the trading floor, during the Primary Trading Session and Post Primary Trading Session. A registered market maker shall effect all of his transactions in securities traded on the Exchange so that they constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. No registered market maker shall enter into transactions or make bids or offers that are inconsistent with such a course of dealings.

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

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the

proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CHX 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 is proposing to add new Article XXA and to amend several related rules, as detailed above, to implement an extended hours trading session. According to the Exchange, market participants and CHX members are demanding that the Exchange begin trading in hours that extend beyond the current trading day. The Exchange believes that after-hours trading may well become a permanent feature of the U.S. securities market and believes that investors will be best served if exchanges are participants in that market.

The operation of the E-Session. The E-Session extended trading hours session will be held from 3:30 p.m. (immediately following the close of the CHX's post primary trading session) to 5:30 p.m., Central time, Monday through Friday.⁵

Trading during the E-Session will be conducted, in some respects, as it is during the CHX's primary trading session; however, the Exchange has added new features to more fully automate the transmission of orders and to provide additional protections to investors who trade during the E-Session. Only unconditional limit orders will be eligible for execution in the E-Session and each limit order must be appropriately designated for trading in the E-Session. Any orders remaining unexecuted at the end of the E-Session will be automatically canceled and will not carry over to any other trading session. Specialist firms will continue to make two-sided, continuous markets in the stocks assigned to them during the existing trading sessions at their posts on the floor of the CHX, unless a specialist firm has transferred its assignment, for the E-Session only, to another specialist firm with the approval of the CHX's Committee on Specialist Assignment and Evaluation ("CSAE").

⁵ See proposed amendments to Article IX, Rule 10(b) (Business Days and Hours of Trading) and Article XX, Rule 2 (Hours of Floor Dealing).

During the E-Session, in most cases, limit orders must be electronically and directly transmitted, via the MAXTM electronic order routing system, to the specialist's limit order book.⁶ Floor brokers may route limit orders to the specialist's limit order book via MAX or may transmit the orders to another market. In addition, a floor broker may route orders to buy and sell equivalent quantities of the same security eligible to be executed at the same price through MAX to the specialist's limit order book or may execute those orders as a crossing transaction at the specialist's post in accordance with existing Exchange rules.

Except as described in Article XXA or in the rules amended as part of this submission, execution, reporting, and clearance and settlement of transactions that occur during the E-Session will follow the procedures currently in place for those activities in the Exchange's primary trading session.⁷ Among other things, the National Securities Clearing Corporation ("NSCC") will clear the transaction that take place during this session⁸ and the Securities Industry Automation Corporation ("SIAC") and Nasdaq, Inc. will disseminate CHX quotations and trade data.

The Exchange, however, proposes three changes to existing rules that arise from either the Exchange's desire to more fully automate the E-Session or from the fact that no primary market will be immediately available during the E-Session. First, the CHX's Guaranteed Execution System (the "Best System") and the automatic execution features of the Midwest Automated Execution System will not operate during the E-Session. In general, the Best System requires specialists to accept and execute orders at prices keyed to the primary market in each security. The

⁶ Preopening orders in all E-Session Eligible Securities will be eligible for a single price opening. See proposed Article XXA, Rule 7. The single price to be applied to preopening orders will be determined based on the preopening limit orders represented on the limit order book at that time. In the event that there are no preopening limit orders represented on the limit order book at that time. In the event that there are no preopening limit orders on the book, the specialist will determine the opening price based on the closing price of the primary trading session. Telephone conversation between Paul O'Kelly, Executive Vice President, Market Regulation and Legal, CHX, and Deborah Flynn, Special Counsel, Division, Commission, on October 13, 1999.

⁷ See proposed amendments to Article XX, Rule 1 (Application) and Article XXI, Rule 1 (Reporting of Transaction).

⁸ Transactions that take place during the E-Session will be reported to NSCC as part of the same end-of-day transmissions used for transactions conducted during the regular trading session. As a result, these transactions will be reported as same-day trades and will be subject to the normal three-day ("T+3") settlement cycle.

primary market likely will not be immediately available during the E-Session. The second change required by the E-Session relates to the execution of odd-lot orders. Current CHX rules require odd-lot dealers to execute all odd-lot orders from members and member organizations and require executive of all odd-lot orders (from members and others) at certain prices keyed to transactions on the primary market. Like the rules relating to the Best System, these rules will apply during the E-Session because of the likely absence of a primary market similar to the one that exists during normal trading hours. Finally, current Exchange rules permit market makers to operate during the primary trading session. Because market makers will not have access to MAX terminals, and therefore cannot route order to the specialists' limit order books during the E-Session, market makers will not participate in the E-Session from other trading floor. The amendments to Article XX, Rule 37 (relating to the Best System), Article XXXI, Rules 6 and 9 (Relating to odd-lot order execution) and Article XXXIV (relating to market makers) reflect these changes.

Securities eligible for trading during the E-Session. The CHX's Committee on Floor Procedure will identify, from time to time, the securities eligible for trading during the E-Session. At its meeting on September 21, 1999, the Committee on Floor Procedure adopted the list of potentially eligible securities recommended to it by the Exchange's New Product Development Committee. The 311 securities approved by the Committee on Floor Procedure include the securities listed on the Standard & Poor's ("S&P") 100 Stock IndexTM ("OEX") as of August 30, 1999, the securities listed on the Nasdaq-100 Index[®] ("NDX") as August 30, 1999, and any other securities that ranked among the 100 most active listed and 100 most active New York Stock Exchange ("NYSE") or Nasdaq/NMS securities, and certain S&P Midcap and S&P 9 Select SPDRs securities as of the end of the second quarter of 1999.⁹

Members eligible to participate in the E-Session. All CHX members will access to the E-Session, in accordance with applicable CHX rules.¹⁰

⁹ Telephone conversation between Paul O'Kelly, Executive Vice President, Market Regulation and Legal, CHX, and Deborah Flynn, Special Counsel, Division, Commission, on October 7, 1999.

¹⁰ Under a rule recently proposed by the CHX, if approved by the Commission, CHX members would be able to lease certain E-Session trading privileges to others, so long as the lessees are approved as members of the Exchange and meet other

Trading halts due to extraordinary market volatility. If trading in all securities on the CHX is halted during the primary trading session and the halt remains in effect at the close of that session, the Exchange will cancel the E-Session for that day. Two CHX floor officials can halt trading in any or all securities during and E-Session if they determine that such action is necessary to preserve a fair and orderly market, and two floor officials may reopen trading in any halted security on the same basis.

Mandatory disclosures to non-members. Because the E-Session operates in a manner, and at a time, that is different from the CHX's primary trading session, the proposal requires members to provide specific disclosures to non-members before accepting orders for execution in the E-Session. Specifically, a member cannot accept an order from a non-member before first disclosing that: (1) Orders for E-Session Eligible securities are eligible only for a single E-Session and, if not executed during that E-Session, shall automatically be canceled; (2) unconditional limit orders are the only orders that are eligible for execution in the E-Session; (3) there is likely to be less liquidity during trading that occurs once normal trading hours have ended and, as a consequence, there may be greater fluctuations in securities prices; and (4) distinct systems and facilities trade securities after normal trading hours have ended and, as a consequence, at any particular time, quotations and transaction prices for a security may vary among those systems. These disclosures are designed to ensure that participants in the after-hours market understand the potential risks of that participation.

Surveillance and oversight. The Exchange will surveil E-Session trading using enhanced surveillance programs.¹¹ E-Session order delivery, quoting and matching will be almost entirely controlled by the Exchange's electronic systems. These systems should reduce the possibility for intentional or inadvertent mishandling of orders and will enhance the effectiveness of the surveillance programs.

Procedures for reviewing capacity, security and contingency planning. The

requirements. See Securities Exchange At Release No. 41968 (September 30, 1999), 64 FR 54701 (October 7, 1999) (noticing File No. SR-CHX-99-08).

¹¹ Letters to Belinda Blaine, Associate Director, Division, Commission, from Paul B. O'Kelly, Executive Vice President, Market Regulation and Legal, CHX, dated October 6, 1999 and October 7, 1999.

CHX plans to use many of the same review procedures for systems security, capacity management, and recovery and contingency planning that it employs for the systems that support the primary trading session.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6(b)(5) of the Act¹² 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.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition. Indeed, the Exchange believes that the proposed rule change will foster competition in the after-hours market.

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

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 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 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 filings will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHR-99-16 and should be submitted by November 10, 1999.

¹² 15 U.S.C. 78f(b)(5).

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

The Commission has reviewed carefully the CHX's proposed rule change and believes, 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.¹⁴ Specifically, the Commission believes that, by providing retail investors with an additional means to trade after regular trading hours, the proposal is consistent with Section 6(b)(5) of the Act¹⁵ in that it is designed to remove impediments to, and to perfect the mechanism of, a free and open market. The implementation of the CHX's E-Session should enhance competition in the after-hours market. Currently, several electronic trading systems provide retail investors the opportunity to trade after-hours. The presence of a national securities exchange in the after-hours market should provide retail investors with an alternative forum through which to conduct after-hours transactions.

The Commission also believes that the rules and regulations applicable to Exchange members should enhance the transparency and integrity of the after-hours market and promote the goals of the national market system. Specifically, the Commission finds that the proposed rule change is consistent with Section 11A(a)(1)(C) of the Act.¹⁶ Congress found in those provisions that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure the practicability of brokers executing investors' orders in the best market.¹⁷ The proposed rule change accomplishes the objectives of the Act by ensuring that Nasdaq and SIAC systems, which are used by market participants to communicate quotations and transactions, will be available to investors outside of traditional market hours, thereby providing for greater transparency in the after-hours market.

In addition, the Commission notes that the CHX has added new features to

¹³ 15 U.S.C. 78f.

¹⁴ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 15 U.S.C. 78k-1(a)(1)(C).

¹⁷ *Id.*

more fully automate the transmission of orders and to provide additional protections to investors who trade during the E-Session. For example, only unconditional limit orders will be eligible for execution in the proposed E-Session and all such orders must be specifically designated as E-Session orders. E-Session orders that are not executed during the E-Session will be automatically canceled and are not carried over to the next-day primary session. The Commission further notes that the CHX proposes to require its members to provide certain disclosures to non-members about the proposed E-Session. The Commission believes that the CHX's proposed mandatory disclosures to non-members should ensure that customers are reasonably informed about the specific risks associated with participation in the after-hours market before their orders are accepted by a CHX member. These requirements are designed to limit, to the extent possible, the likelihood of investor confusion regarding the significant differences between the E-Session and the existing trading sessions. Moreover, the proposed requirement that specialist firms continue to make two-sided, continuous markets in the securities assigned to them for the existing trading sessions may provide further liquidity for investor orders.

In the Commission's view, the CHX's proposal to require its members to follow the rules and procedures currently in place for the existing trading session, with certain exceptions, is reasonable. The Commission notes that proposed exceptions result from the CHX's desire to more fully automate its E-Session and the fact that no primary markets are expected to be operating in the after-hours market at the time the CHX's E-Session is implemented. Although the Commission believes that the proposed exceptions are reasonable at this time, the Commission expects that the CHX's Best System and its existing rules governing odd-lot orders would be applied by the CHX to the E-Session as soon as the primary markets initiate trading in the after-hours market.¹⁸

The Commission further notes that the CHX has represented that it intends to implement enhanced surveillance procedure with respect to the proposed E-Session.¹⁹ The enhanced surveillance capabilities should assist the CHX in satisfying the requirements of Section

6(b)(5) of the Act²⁰ that Exchange proposals be designed to promote just and equitable principles of trade.

Finally, the CHX has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act²¹ for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register** because accelerated approval will benefit investors by providing retail investors with another venue, in this case, a national securities exchange, for executing transactions after regular trading hours. Moreover, the rules and regulations applicable to Exchange members should increase competition in, and enhance the transparency of, the after-hours market. In particular, SIAC and Nasdaq will disseminate CHX quotations and trade data on a real-time basis over the consolidated tape.

The Commission further believes that good cause exists for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register**. The Commission notes that Amendment No. 1 merely establishes the extended hours trading session as a pilot program, scheduled to expire on March 1, 2000. The Commission believes that designation the E-Session as a pilot program will provide the Commission and the CHX with additional time to evaluate the issues implicated by after-hours trading. In addition, a pilot program should provide the Commission and the CHX with greater flexibility to modify the program to ensure consistency across markets when the primary markets extend their trading hours.

The Commission believes that good cause also exists to accelerate approval of Amendment No. 2 to the proposed rule change. Amendment No. 2 delays the date on which the proposal becomes operative to October 29, 1999 to provide the Exchange additional time to ensure that its systems are ready. The Commission believes that it is prudent for the CHX to take the requisite time to ensure that its systems are fully prepared prior to implementing its proposed E-Session. The Commission finds, therefore, that granting accelerated approval of the proposed rule change, including Amendment Nos. 1 and 2, is appropriate and consistent with Section 6 of the Act.²²

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-CHX-99-16), as amended, is hereby approved on an accelerated basis as a pilot program, through March 1, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42001; File No. SR-CHX-99-17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Voluntary Delisting Requirements

October 13, 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 September 24, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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.

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

The Exchange proposes to amend Article XXVIII, Rule 4 of the Exchange's rules to modify the prerequisites to voluntary delisting from the Exchange. Specifically, the proposed rule change would delete the requirement that an issuer seeking to delist first obtain shareholder approval, replacing the deleted provisions with a provision requiring that the issuer first file with the Exchange a certified copy of its board resolution authorizing delisting.

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁸ These changes would require the CHX to submit a rule filing with the Commission pursuant to Section 19(b) of the Act. 15 U.S.C. 78s(b).

¹⁹ See *supra* note 11.

²⁰ 15 U.S.C. 78f(b)(5).

²¹ 15 U.S.C. 78s(b)(2).

²² 15 U.S.C. 78f.