

to the trading of options on the CHX. In 1980, the Commission approved changes to the Exchange's bylaws and rules that deleted most references to the Exchange's operation of an options market.<sup>3</sup> Since that time, CHX has not operated an options market, but has served as an self-regulatory organization participant on the Options Self-Regulatory Council ("OSRC") for essentially informational purposes.

In its proposal, CHX explained that given changes in the options market and obligations of OSRC participants, it believes that it is no longer advisable, from either a regulatory or economic perspective, to continue serving on the OSRC.<sup>4</sup> Accordingly, the proposed rule change deletes from the CHX rules all remaining references to the trading of options and handling of options orders, which in turn, excuses the Exchange from any obligation to serve on the OSRC.

The proposed rule change was published for comment in the **Federal Register** on June 13, 2002.<sup>5</sup> The Commission received no comments on the proposal.

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<sup>6</sup> and, in particular, the requirements of Section 6 of the Act<sup>7</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the Exchange's rules 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 general, to protect investors and the public interest. The Commission believes that the rule change appropriately conforms the CHX rules to

the current scope of the CHX's operations, which does not currently include operating an options market.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-CHX-2002-14) be, and it hereby is, approved.

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. 34-46227; File No. SR-NYSE-2001-18]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change Relating to NYSE Rule 72 Regarding Clean Crosses of Orders of 100,000 Shares or More, and Providing That a Specialist May Not Effect a Proprietary Transaction to Provide Price Improvement to One Side of a Clean Cross or the Other

July 18, 2002.

#### I. Introduction

On July 3, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), 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 NYSE Rule 72(b) to (i) permit clean crosses of 100,000 shares or more when a member organization is facilitating a customer order; and (ii) provide that a specialist may not effect a proprietary transaction to break up a cross being effected under the Rule. The proposal was published for notice and comment in the **Federal Register** on November 6, 2001.<sup>3</sup> The Commission received three comments

on the proposal.<sup>4</sup> On January 29, 2002, the NYSE responded to the comments.<sup>5</sup>

On June 18, 2002, the NYSE amended the proposal by removing the proposed amendment to Rule 72(b) relating to clean crosses of 100,000 shares or more.<sup>6</sup> This order approves the proposed rule change. Also, Amendment No. 1 is approved on an accelerated basis.

#### II. Description of the Proposed Rule Change

As a result of Amendment No. 1, the proposed rule change consists only of the NYSE's amendment of NYSE Rule 72(b) to provide that a specialist may not effect a proprietary transaction to provide price improvement to one side of a clean cross or the other. The Exchange understands that there may be a perception that specialists can break up a proposed cross transaction by trading for their own account at a minimally improved price, and, thereby, step ahead of a public customer on the other side of the cross. The NYSE believes the proposed rule change, as amended, will preserve the auction market principle of price improvement, since non-proprietary interest of specialists and particular floor brokers in the market may offer price improvement at any minimum variation.

#### III. Discussion and Commission Findings

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<sup>7</sup> and, in particular, the

<sup>4</sup> See November 27, 2001 letter from Craig S. Tyle, General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC ("ICI Letter"); December 18, 2001 letter from Thomas N. McManus, Executive Director and Counsel, Morgan Stanley ("Morgan Stanley Letter"); February 11, 2002 letter from Alton B. Harris, Ungaretti & Harris ("Ungaretti Letter"). All of the comment letters focused on the provision allowing clean crosses of 100,000 shares or more when a member organization is facilitating a customer order. This provision was subsequently deleted from the proposed rule change. See footnote 6, *infra*. The Commission reviewed the comment letters. Because the letters pertained to those portions of the original proposed rule change that were subsequently removed by Amendment No. 1, the Commission has not included a summary of comments in this order.

<sup>5</sup> See January 29, 2002 letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Jonathan G. Katz, Secretary, SEC ("NYSE Response Letter").

<sup>6</sup> See June 14, 2002 letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC and attachments ("Amendment No. 1").

<sup>7</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>3</sup> See Securities Exchange Act Release No. 17075 (August 19, 1980), 45 FR 56486 (August 25, 1980).

<sup>4</sup> If the CHX were to continue to serve, it would be responsible for a *pro rata* share of OSRC member examination costs, which CHX states are significant. CHX believes that there is no rationale that supports CHX payment of examination costs attributable to exchanges that are actively trading options, given that CHX does not presently trade options and would have to propose significant rule changes should it elect to commence options trading in the future.

<sup>5</sup> See Securities Exchange Act Release No. 46044 (June 6, 2002), 67 FR 40761 (June 13, 2002).

<sup>6</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).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

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

<sup>11</sup> 15 U.S.C. 78s(b)(1).

<sup>12</sup> 17 CFR 240.19b-4.

<sup>13</sup> See Securities Exchange Act Release No. 45004 (October 31, 2001), 66 FR 56143.

requirements of Section 6 of the Act<sup>8</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>9</sup> in that the Rule 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, in general, to protect investors and the public interest. The Commission believes that the proposed rule change, while eliminating the opportunity for specialists to effect a proprietary transaction to provide price improvement to one side of a clean cross or the other, preserves the auction market principle of price improvement by continuing to allow non-proprietary interest of specialists and particular Floor brokers in the market to offer price improvement at any minimum variation.

The Commission finds good cause for approving Amendment No. 1 before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 simply removes the provision from the original filing that would have allowed clean crosses of 100,000 shares or more when a member organization is facilitating a customer order. This provision was the focus of the comment letters. Because Amendment No. 1 removes this provision, the Commission believes it is appropriate to approve Amendment No. 1 on an accelerated basis. For these reasons, the Commission finds good cause for accelerating approval of Amendment No. 1.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1, including whether Amendment No. 1 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 NYSE. All submissions should refer to file number SR-NYSE-2001-18 and should be submitted by August 14, 2002.

#### V. Conclusion and Order

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NYSE-2001-18), including Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-18697 Filed 7-23-02; 8:45 am]

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#### DEPARTMENT OF STATE

##### [Public Notice 4069]

**Office of Global Educational Programs (ECA/A/S); 30-Day Notice of Proposed Information Collection: Fulbright Teacher and Administrator Exchange Program Application Package; Forms DS-4500, 4501, 4502, 4503, 4504, 4505, 4506; OMB Number 1405-0114**

##### ACTION: Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Reinstatement with change of a previously approved collection for which approval has expired.

*Originating Office:* Office of Global Educational Programs (ECA/A/S).

*Title of Information Collection:* Fulbright Teacher and Administrator Exchange Program Application Package.

*Frequency:* Annual.

*Form Number:* DS-4500, 4501, 4502, 4503, 4504, 4505, and 4506.

*Respondents:* Educators desiring to participate in the Fulbright Teacher and Administrator Exchange Program.

*Estimated Number of Respondents:* 862.

*Average Hours Per Response:* 2.

*Total Estimated Burden:* 1724.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

##### FOR FURTHER INFORMATION CONTACT:

Copies of the proposed information collection and supporting documents may be obtained from U.S. Department of State, SA-44, Room 349; 301 Fourth St., SW; Washington, DC 20547. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202-395-3897.

Dated: July 9, 2002.

**James D. Whitten,**

*Executive Director, Bureau of Educational and Cultural Affairs, Department of State.*

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#### DEPARTMENT OF STATE

##### [Public Notice 4070]

**M/DGHR/MED/EX; 30-Day Notice of Proposed Information Collection: Form DS-1843, Medical History and Examination for Foreign Service—Persons 12 Years and Over; Form DS-1622, Medical History and Examination for Foreign Service—For Children 11 Years and Under; OMB Number 1405-0068**

##### ACTION: Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Extension of a current collection.

<sup>8</sup> 15 U.S.C. 78f.

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