

of the Act³⁶ to approve Amendment No. 1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the proposal, including whether the proposed rule change as supplemented by 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. 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 persons, 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 also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-98-24 and should be submitted by September 24, 1998.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁷ that the proposed rule change (SR-Amex-98-24), as supplemented by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority:³⁸

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40369; File No. SR-CHX-98-13]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Exchange's Clearing the Post Policy

August 26, 1998.

I. Introduction

On June 10, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to make the Exchange's clearing the post policy permanent.³ The proposed rule change was published for comment in the **Federal Register** on July 16, 1998.⁴ The Commission received no comments on the proposal.

II. Description of the Proposal

The Exchange proposes to amend interpretation and policy .02 of CHX Rule 10 of Article XX and amend CHX Rule 11 of Article XX relating to clearing the post and to make permanent the policy contained in Article XX, Rule 11 regarding the ability of oral bids and offers on cabinet securities⁵ to clear the post by phone. Prior to the pilot program's approval, the Exchange's clearing the post policy required a floor broker or market maker to clear the post by his or her physical presence at the post. The proposed rule change does not require the floor broker's or market maker's physical presence to clear the post. Instead, a floor broker or market maker may clear the post by phone. The bids and offer made to clear the post by phone are

audibly announced at the cabinet post through a speaker system maintained by the Exchange.

The proposed rule change will also expand the clearing the post policy to bids and offers in all securities traded on the trading floor. Interpretation and policy .02 of CHX Rule 10 of Article XX, as amended, will allow a floor broker or market maker to clear the post by phone for bids and offers in any security traded on the trading floor provided they are audibly announced at the post through a speaker system maintained by the Exchange, and the floor broker or market maker is physically present on the Exchange floor.

III. Discussion

After careful review, 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. The Commission believes that the proposed rule change is consistent with Section 6 of the Act, in general,⁶ and Section 6(b)(5),⁷ in particular, in that it is designed to promote just and equitable principles of trade to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating and facilitating transactions 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.⁸

The Commission believes that allowing floor brokers or market makers to clear the post for cabinet securities while remaining at their post will ensure that these floor brokers or market makers will be at their post when they need to respond to orders in more liquid securities at a much faster pace. The Commission also believes that expanding the policy to all securities traded on the trading floor, provided that the bid or offer is audibly announced at the post and floor broker or market maker is physical present on the Exchange floor, is consistent with the Act. Expanding the policy should extend the efficiencies experienced during the clearing the post for cabinet securities pilot program to all securities on the CHX floor.⁹ The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release Nos. 39519 (January 6, 1998), 63 FR 1985 (January 13, 1998) (order approving proposed rule change CHX-97-28 amending the Exchange's clearing the post policy for cabinet securities for a six-month pilot program) and 40144 (June 30, 1998), 63 FR 27157 (July 9, 1998) (order approving proposed rule change CHX-98-17 extending the Exchange's pilot program relating to the clearing the post policy for cabinet securities for a five-month period or until the approval of the instant proposed rule change).

⁴ See Securities Exchange Act Release No. 40187 (July 9, 1998), 63 FR 38442.

⁵ A cabinet security is any security that is either listed or available to be traded on the CHX pursuant to unlisted trading privileges that is not assigned a specialist. Telephone conversation between Andrea Svehala, Manager, Equity Floor Surveillance, CHX, and Marc McKayle, Attorney, Division of Market Regulation, Commission (July 24, 1998).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

⁸ 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).

⁹ The CHX submitted a report to the Commission representing that the policy has been well received by the floor brokers and market makers of the

³⁶ 15 U.S.C. 78f(b)(5).

³⁷ 15 U.S.C. 78s(b)(2).

³⁸ 17 CFR 200.30-3(a)(12).

believes that the proposed rule change should augment the ability of floor brokers and market makers to respectively seek best price execution for orders and provide depth and liquidity to the Exchange market.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CHX-98-19) is approved.

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

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40368; File No. SR-DTC-97-21]

Self-Regulatory Organizations; The Depository Trust Corporation; Order Approving a Proposed Rule Change Relating to Modification of Processing Bankers' Acceptances

August 26, 1998.

On October 14, 1997, The Depository Trust Corporation ("DTC") filed with the Securities and Exchange Commission ("Commission"), and on November 6, 1997, and February 23, 1998, amended a proposed rule change (File No. SR-DTC-97-21) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on April 21, 1998.² No comment letters were received. For the reasons below, the Commission is approving the proposed rule change.

I. Description

In 1994, the Commission approved an expansion of DTC's money market instruments ("MMI") settlement program to include, among other things, BAs,³ which allowed DTC to process

non-fungible BAs.⁴ The purpose of the proposed rule change is to modify DTC's procedures to allow an accepting bank, at its option, to assign one CUSIP number to a bundle of its BAs that are issued at a discount and that have the same maturity date. DTC will treat all such BAs assigned the same CUSIP number as fungible.

Under existing practices in the BA market, an issuing bank and an investor may agree that a single issuance transaction can be settled by the bank's delivery of a bundle of drafts, which may involve different drawers, different underlying transactions, different goods, or different countries of origin or destination, so long as each component draft has been accepted by the issuing bank and has the same maturity date. The program for processing BAs will reflect industry practice by permitting an issuing bank to settle a single issuance transaction by book-entry delivery of interests in a bundle of drafts accepted by the bank, maturing on the same date, and identified by a single CUSIP number.

Subsequent to the initial issuance of these fungible BAs, the issuing bank may increase the total amount of the issue outstanding by including additional accepted drafts of the same or longer tenure as the other component drafts.⁵ Similarly, the issuing bank may substitute for a component draft of an outstanding issue of fungible BAs another accepted component draft having the same or longer maturity date. DTC will make available to participants though its Participant Terminal System information about the features (e.g., identity of drawer, goods, country of origin, and destination) of each component draft of fungible BAs that has been provided by the bank's issuing agent as of the date of the inquiry.

Market participants will remain responsible for complying with regulations of the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") as they pertain to DTC-eligible BAs. In providing issuance instruction to DTC, the bank's issuing agent will be required to acknowledge that the issuance complies with OFAC regulations. The acknowledgement shall constitute a representation that the

issuing agent maintains an appropriate system for assuring compliance with OFAC regulations and that the subject issuance complies with those regulations.

The bank's issuing agent will also be required to indicate in the issuance instructions whether or not the BAs being issued are eligible for purchase and discount at a federal reserve bank. DTC will make the information available to participants but will not verify the accuracy of information provided by the issuing agent with respect to the BAs. DTC will not be liable for any loss related to the accuracy or completeness of information about BAs made available by it.

In the event of the accepting bank's insolvency, DTC's MMI program procedures relating to MMI issuer insolvency will apply. Furthermore, in order to put participants in a position to independently pursue claims against the bank or any other party (e.g., the drawer of an accepted draft), DTC will seek to have accepted drafts which had been made payable or endorsed to DTC's nominee, Cede & Co., at the time the BAs were first issued, exchanged for accepted drafts made payable or endorsed to each participant having a position in each issue of the bank's BAs.⁶ If DTC is unable to arrange for such exchanges, DTC will act with respect to matters involving each issue of BAs (i.e., CUSIP) in accordance with the written instructions of the participants having sixty-six and two-thirds percent or more of the total position in that issue.

As with other types of financial instruments in DTC's MMI program, BAs rated in one of the top two ratings categories by at least one of the largest bank-debt rating agencies and investment grade or above by other rating agencies will receive a two percent haircut from market price for purposes of collateral valuation. BAs rated as investment grade only by the ratings agencies will receive a five percent haircut and all lower-rated or unrated BAs will receive a 100 percent haircut (resulting in zero collateral value). BAs that are in default will not be eligible for deposit at DTC.

II. Discussion

Section 17A(b)(3)(F) of the⁷ requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in this custody or

Exchange, and that no adverse effects have been experienced since the implementation of the pilot program. The report was filed pursuant to Securities Exchange Act Release No. 39519 (January 6, 1998), 63 FR 1985 (January 13, 1998) (order approving amendment to the Exchange's clearing the post policy for cabinet securities). See Report on the Effectiveness of the Pilot Program for Clearing the Cabinet Post by Phone, dated June 5, 1998.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 39861 (April 14, 1998), 63 FR 19772.

³ Securities Exchange Act Release Nos. 33958 (April 22, 1994), 59 FR 22879 (order approving

proposal on temporary basis); and 35655 (April 28, 1995), 60 FR 22423 (extension of temporary approval).

⁴ Non-fungible BAs consist of those with only one underlying customer, draft, and accepting bank. A CUSIP number is assigned to each BA as opposed to a bundle of BAs, as is currently proposed by the rule change.

⁵ Where the component drafts have different maturity dates, the bank issuing fungible BAs will be required to pay full maturity on the earliest date that the component draft matures.

⁶ A participant having a position on DTC's books in an issue of fungible BAs accepted by the insolvent bank would receive component drafts with each draft in an amount proportional to the participant's position in that issue.

⁷ 15 U.S.C. 78sq-1(b)(3)(F).