

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.

#### 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, 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 in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by August 16, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44579; File No. SR-CSE-2001-03]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to Transaction and Book Fees

July 20, 2001.

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> notice is hereby given that on June 28, 2001, the Cincinnati Stock Exchange, Incorporated ("CSE" or "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 CSE. The Commission is publishing this notice to solicit comment 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 CSE proposes to amend the Exchange's schedule of book and transaction fees. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

\* \* \* \* \*

#### Chapter XI

##### Trading Rules

##### Rule 11.10 National Securities Trading System Fees

##### A. Trading Fees (No Change to Text)

(k) Tape "B" Transactions. The CSE will not impose a transaction fee on Consolidated Tape "B" securities. In addition, Members will receive a 50 percent [per cent] pro rata transaction credit of *Net* Tape "B" revenue.

(l) *Tape "C" Transactions. Tape "C" Transactions is defined as transactions conducted in Nasdaq securities pursuant to unlisted trading privileges ("UTP"). Members will be charged \$0.001 per share per side (\$1.00/1000 shares), with a maximum charge of \$37.50 per firm per side, for Tape C Transactions.*

(m) DD Issue/Book Fees. Designated Dealers will be charged a monthly book fee based on the following incremental schedule:

Number of issues	Fee per issue
0 to 150 .....	[\$20.00] <i>\$25.00</i>
151 to 300 .....	[\$10.00] <i>\$15.00</i>
301 [and higher] to 500 ....	[\$5.00] <i>\$10.00</i>
500 and higher .....	<i>\$1.00</i>

[(m)] (n) NSTS Internal Customer Port Charge. For purposes of this charge, a "Port" shall be defined as a TCP/IP address. For each port utilized on the CSE mainframe, a [\$200.00] *\$350.00* per month charge will be assessed the member.

[(n)] (o) Technology Fee. Every member of the Exchange shall be assessed a fee of [\$300.00] *\$500.00* per month to help offset technology expenses incurred by the Exchange.

[(o)] (p) Clearing Related Fee Passed Through To Member. (No change to text).

[(p)] (q) SEC Fee (No change to text).

B. Membership Fees. (No Change to Text)<sup>3</sup>

C. Transaction Credit De Minimis. For all rebates applicable to Tape A and Tape B Transactions, no member shall be eligible for a rebate for any quarter unless the total rebate calculation for that quarter exceeds \$500.00.

\* \* \* \* \*

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

In its filing with the Commission, the CSE 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 CSE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts 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 several amendments to various book and transaction fees in keeping with recent trends in the securities industry. The first proposed amendment would make two clarifications to CSE Rule 11.10(A)(k) ("Tape "B" Transactions"). The first clarification proposed by the Exchange changes the term "percent" to "percent," and the second clarification would add the word "Net" before the term "Tape "B" Revenue." In addition, the Exchange proposes to add a provision to CSE Rule 11.10(A) as new subsection (1) entitled "Tape "C" Transactions." This proposed section establishes a fee schedule for transactions in Nasdaq securities.

The second proposed amendment would be to CSE Rule 11.10(A)(l) ("DD Issue/Book Fees") in which the monthly book fees would increase by five dollars (\$5.00) for certain incremental number of issues traded and decrease the monthly book fee to one dollar (\$1.00) for the highest increment. The Exchange also proposes to amend the increments of issues. Book fees are charged to Designated Dealers for each issue in which they are registered as a specialist. This increase is necessary to offset the recent rise in regulatory and

<sup>3</sup> The Exchange inadvertently excluded Section B from the proposed rule text, which reflects no change in the current rule text. Telephone conversation between Jeffrey T. Brown, Vice President, Regulation and General Counsel, CSE, and Lisa Jones, Attorney, Division of Market Regulation, Commission, July 12, 2001.

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

surveillance costs. This section will also be relabeled as 11.10(A)(m) to accommodate the new subsection (A)(l).

The third proposed amendment would be to CSE Rule 11.10(A)(m) ("NSTS Internal Customer Port Charge") in which the Exchange proposes to increase the port charge from \$200.00 per month to \$350.00 per month. This proposed increase is necessary to offset recent increases in Exchange expenditures. This section will also be relabeled as 11.10(A)(n) to accommodate the new subsection (A)(l).

The fourth proposed amendment would be to CSE Rule 11.10(A)(n) ("Technology Fee") in which every CSE Member would be assessed a fee of five hundred dollars (\$500.00) a month, up from three hundred dollars (\$300.00) per month. The increase in the Technology Fee is necessary to offset the increase in expenditures the Exchange has incurred and that the Exchange will continue to incur in the CSE's continuing efforts to provide the highest level of technology to its Members and the investing public. This section will also be relabeled as 11.10(A)(o) to accommodate the new subsection (A)(l). Subsections (A)(o) ("Clearing Related Fee Passed Through To Member") and (A)(p) (SEC Fee) will be relabeled as (A)(p) and (A)(q), respectively, to accommodate the inclusion of proposed CSE Rule 11.10(A)(1) ("Tape "C" Transactions"). However, there will be no changes to the rule text.

The final amendment adds a new provision to CSE Rules which is entitled "Transaction Credit De Minimis" and will be codified at Rule 11.10(C) ("Transaction Credit De Minimis"). This provision would require members to conduct a minimal amount of transactions per quarter in order to be eligible for a transaction credit for Tape A and Tape B transaction revenue under current CSE rules. This de minimis requirement is necessary to secure the efficiency and cost savings that the CSE transaction credit program encourages.

## 2. Statutory Basis

The proposed rule change is generally consistent with section 6(b) of the Act.<sup>4</sup> The proposed rule also furthers the objectives of section 6(b)(5) of the Act,<sup>5</sup> particularly, in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, generally, in that it protects investors and the public interest. The

proposal also is consistent with section 6(b)(4) of the Act<sup>6</sup> in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members by crediting members on a pro rata basis.

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

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>8</sup> because the proposal is establishing or changing a due, fee or other charge. 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.

## 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, 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 Exchange.

All submissions should refer to File No. SR-CSE-2001-03 and should be submitted by August 16, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44572; File No. SR-ISE-00-17]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments No. 1 and No. 2 by the International Securities Exchange LLC Relating to its Arbitration Program

July 18, 2001.

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> notice is hereby given that on November 20, 2000, the International Securities Exchange LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change. On March 5, 2001, the Exchange filed Amendment No. 1 thereto,<sup>3</sup> and on July 16 2001, the Exchange filed Amendment No. 2 thereto,<sup>4</sup> as described in Items I, II, and III below, which Items have been prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Letter from Katherine Simmons, Vice President and Associate General Counsel, ISE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated March 5, 2001 ("Amendment No. 1"). In Amendment No. 1, the ISE added paragraphs (a) and (b), which are jurisdictional provisions currently contained in ISE rule 1800, to the proposed rule text.

<sup>4</sup> See Letter from Jennifer M. Lamie, Assistant General Counsel, ISE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated July 16, 2001 ("Amendment No. 2"). Amendment No. 2 replaced the initial filing and Amendment No. 1 in their entirety. In Amendment No. 2, the ISE made minor changes to the order of the subsections under ISE Rule 1800, amended the language of its proposed jurisdictional provisions, and added subsection (c), which governs predispute arbitration agreements.

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).