

the Commission believes that the difference in treatment between clearing members and individual members is reasonable and consistent with the Act.

Additionally, the Commission believes that including a verification procedure under Rule 17.50, pursuant to which any member who receives an as of add summary fine would be able to request verification of that fine by the Exchange, provides adequate due process rights to the fined member and is consistent with the Act. The Commission notes that even if the accused fails to request verification, the member may appeal the fine under Rule 17.50(d) within 30 days after the Exchange's service of the disciplinary notice informing the member of the fine.

Moreover, the Commission believes that the procedures currently set forth in Rule 2.26(d), which permit the Exchange to suspend the as of add fee program, are just as appropriate for inclusion in the as of add summary fine program. The Commission believes that when unusual circumstances exist that affect the ability of a significant number of members to submit trade information to the Exchange in a timely manner it may not be appropriate to assess fines against such members. These procedures will permit the CBOE's Clearing Procedures Committee, with the approval of the President of the Exchange, or his designee, to suspend the as of add summary fine program for periods no greater than seven calendar days, plus extensions, when unusual circumstances so warrant. The Commission notes, however, that it expects the CBOE to use its power to waive as of add fines only in highly unusual circumstances.

Finally, the Commission believes that the Exchange will be providing adequate notice of the rule change to its members by publication in the Exchange's Regulatory Bulletin 45 days in advance of the effective date of the change. The Commission believes this is particularly important with rule changes such as this which affect members' susceptibility to disciplinary sanctions.

Accordingly, the Commission finds that the CBOE's proposal is appropriate and consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CBOE-96-24) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34-37644; File No. SR-CHX-96-21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to "Stop" Orders and "Stopped" Orders

September 5, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1996, the Chicago Stock Exchange, Incorporated ("CHX" 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 self-regulatory organization.¹ The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 thereto 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 XX, Rule 28 and Article XX, Rule 37 of the Exchange's Rules and add Article XX, Rule 28A to the Exchange's Rules. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

Article XX

Liability for ["Stop"] "Stopped" Orders

Rule 28 An agreement by a member or member organization to have an order "*stopped*" ["stop" securities]] at a specified price shall constitute a guarantee of the purchase or sale by him or it of the security[ies] at the *stopped* price or its equivalent in the amount specified; *but in no event shall the guarantee be greater than the greater of (i) the size disseminated in the primary market at the time the order was stopped, or (ii) the size disseminated by the Exchange at the time the order was stopped.* If an order is executed at a price less favorable [price than that agree upon] *than the stopped price*, the member or member organization which agreed to stop the securities shall be liable for an adjustment of the difference between the two prices.

¹ See Letter from David T. Rusoff, Attorney, Foley & Lardner, to Jon Kroeper, Attorney, SEC, dated August 27, 1996 ("Amendment No. 1"). Amendment No. 1 added language clarifying the manner by which sell stop limit orders would be elected under proposed CHX Article XX, Rule 28A(b)(2) and corrected the text of the proposed amendment to CHX Article XX, Rule 37(a)(6).

Rule 28A Stop Orders.

(a) Stop Orders.

A "*stop*" order to buy shall only be entered at a price above the current primary market offer. A "*stop*" order to sell shall only be entered at a price below the current primary market bid. Once entered, a "*stop*" order may not be executed until a trade (the "*effective trade*") occurs in the primary market that is at or through the price of the "*stop*" order. Once the effective trade occurs, the "*stop*" order shall be executed based upon the next primary market trade, but at a price no better than the effective trade (i.e. the "*stop*" order shall be executed on a next-no better basis).

(b) Stop Limit Orders.

(1) Buy Stop Limit Orders. A buy stop limit order shall only be entered at a price above the current primary market offer and shall become a limit order when a round-lot transaction takes place in the primary market at or above the stop price. The order shall then be filled in the manner prescribed for handling a limit order to buy.

(2) Sell Stop Limit Orders. A sell stop limit order shall only be entered at a price below the current primary market bid and shall become a limit order when a round-lot transaction takes place in the primary market at or below the stop price. The order shall then be filled in the manner prescribed for handling a limit order to sell.

Article XX

Rule 37(a)

1.-5. No change in text.

6. Since executions are guaranteed on the basis of the size and price of the best bid or offering, the order may be executed out of the primary market range for the day, but in a Dual Trading System issue a stop must be granted if requested.

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 self-regulatory organization 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 self-regulatory organization 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 primary purpose of the proposed rule change are to clarify that the existing Rule 28 of CHX Article XX relates to "stopped" orders and not "stop" orders, and to add a provision to the Exchange's Rules relating to "stop"

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

orders, among other things. With regard to "stop" orders, proposed CHX Article XX, Rule 28A permits such orders only to be entered at a price above (for buy orders) or below (for sell orders) the current primary market offer or bid, respectively.

In addition, the Exchange's rules on "stopped" orders are being clarified to make it clear that the execution guarantee of the "stopped" order is limited to the size displayed in the primary market when the "stopped" order is entered. This is consistent with the execution guarantee on orders that are subject to the BEST Rule that are not stopped, which are guaranteed an execution on the lesser of the size displayed in the primary market or 2099 shares.²

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act³ 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 on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a 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 either solicited or received.

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

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-96-21 and should be submitted by October 3, 1996.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37653; File No. SR-CSE-96-05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Cincinnati Stock Exchange Relating to Day Trading Margin Requirements

September 6, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1996, the Cincinnati Stock Exchange ("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 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 CSE proposes to amend its rules concerning day trading margin

requirements. The text of the proposed rule change is set forth below [New text is italicized; deleted text is bracketed]:

Rule 6.2. Day Trading Margin

(a) *The term "day trading" means the purchasing and selling of the same security on the same day. A "day trader" is any customer whose trading shows a pattern of day trading.*

(b) *Whenever day trading occurs in a customer's margin account the margin to be maintained shall be the margin on the "long" or "short" transaction, whichever occurred first. When day trading occurs in the account of a day trader, the margin to be maintained shall be the margin on the "long" or "short" transaction, which ever occurred first.*

(c) *No member shall permit a public customer to make a practice, directly or indirectly, of effecting transactions in a cash account where the cost of securities purchased is met by the sale of the same securities. No member shall permit a public customer to make a practice of selling securities with them in a cash account which are to be received against payment from another broker-dealer where such securities were purchased and are not yet paid for.*

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 aspects of such statements.

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

The purpose of the proposed rule change is to enhance the financial protections and therefore the integrity of the Exchange's markets by ensuring that customers maintain adequate margin reserves in their accounts. The proposed rule change requires day traders to maintain margins sufficient to cover their intraday "long" or "short" positions, depending upon which occurred first, for a particular day.

Because the proposed rule change will enhance the financial protections and the integrity of the exchange's markets, the Exchange believes that the proposed rule change is consistent with

² See CHX Article XX, Rule 37. The Exchange's BEST System specifies certain conditions under which CHX specialists are required to accept and guarantee executions of market and limit orders from 100 up to and including 2099 shares.

³ 15 U.S.C. 78f(5).