

such as CBOE have the authority to mandate that their member firms participate in Year 2000 testing and that they report test results (and other Year 2000 information) to the SROs. The proposed rule change will help CBOE participate in coordinating Year 2000 testing, including industry-wide testing, and in remediating any potential Year 2000 problems. This, in turn, will help ensure that the industry-wide tests and CBOE's Year 2000 efforts are successful. The proposed rule change will also help CBOE work with its member firms, the SIA, and other SROs to minimize any possible disruptions the Year 2000 may cause.

#### 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, Washington, DC 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 in the Commission's Public Reference Section, 450 Fifth Street, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-98-40 and should be submitted by January 28, 1999.

#### V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act<sup>8</sup> that the proposed rule change (SR-CBOE-98-40) and Amendment No. 1 thereto is thereby approved On an accelerated basis.<sup>9</sup>

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. 34-40839; File No. SR-CHX-92-32]

#### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Mandatory Year 2000 Testing

December 28, 1998.

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 December 21, 1998, the Chicago Stock Exchange, Incorporated ("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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The Exchange proposes to add a new rule, Article XI, Rule 11, to require certain CHX members to conduct or participate in computer tests designed to address the Year 2000 problem and to file reports with the CHX.

The text of the proposed rule change is below. Proposed new language is italicized.

\* \* \* \* \*

#### ARTICLE XI

##### Rule 11. Mandatory Year 2000 Testing

[Note: This rule will expire automatically on January 1, 2001]

(a) *Each member and member organization shall conduct or participate in testing of computer systems designed to prepare for Year 2000, in a manner and frequency prescribed by the Exchange, and shall provide to the Exchange reports related to such testing as requested by the Exchange.*

(b) *The Exchange may exempt a member or member organization from*

*this requirement if that member or member organization cannot be accommodated in the schedule by the organization conducting the test or if the member does not employ computers in its business or for other reasons acceptable to the Exchange.*

#### 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 Exchange 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 Exchange 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 CHX is proposing to adopt a rule that would establish the CHX's specific authority to require certain members to participate in Year 2000 tests and to require reporting on the tests.<sup>3</sup> The CHX is proposing that the rule will expire in the year 2001 so that the CHX will have specific authority to mandate testing and reporting, as necessary, to correct problems that are not resolved prior to January 1, 2000, or to correct problems that arise after January 1, 2000.

On January 1, 2000, the internal date in computers should roll-over from "12/31/99" to "01/01/00." At that moment, if corrective measures have not been taken, the program logic in the vast majority of these computer systems will begin to produce erroneous results because the systems will read the date as beginning in the year 1900 rather than 2000. This problem, known as the "Year 2000 Problem," could cause significant disruption in the securities industry. There are several stages involved in correcting the Year 2000 Problem, including: assessing the problem; implementing corrective measures; conducting internal, point-to-point, and integrated or industry-wide testing; and establishing contingency plans.

The testing stage of correcting the Year 2000 Problem will be critical to

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> In approving the proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

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

<sup>2</sup> 17 CFR 240.194b-4.

<sup>3</sup> The proposed rule is not intended to limit the CHX's existing authority by rule, contract, or otherwise, to mandate testing or require reports from members.

ensuring that the markets will operate with minimal disruption after January 1, 2000. To facilitate testing on an integrated, industry-wide basis, the Securities Industry Association ("SIA") has undertaken the task of coordinating such a test. Test participants will include, among others, Nasdaq, the exchanges, registered clearing corporations and depositories, data processors, and broker-dealers. The first day of the integrated, industry-wide test is scheduled for March 6, 1999.<sup>4</sup>

The CHX believes it is essential that the firms that could cause the most disruption in the market (if these firms have not corrected the Year 2000 Problem) conduct tests of all of their critical computer systems that relate to their different types of businesses (e.g., equities, options, government securities, mortgage-backed securities). Consequently, the CHX is proposing to require certain firms to conduct tests to address the Year 2000 Problem in a manner and frequency prescribed by the Exchange.

The proposed rule would provide specific authority to require participation in organized, industry-sponsored tests, and require "point-to-point" testing between member firms and the CHX or other systems, or internal tests of members systems. These other tests may be particularly significant for smaller forms that may not be able to participate in the industry-sponsored tests.

Some members may be able to satisfy their testing obligation without actually conducting tests themselves. For example, it is likely that specialists that are not clearing firms and that only use CHX issued specialist terminals for their specialist activity will not be required to participate in mandatory testing because the CHX has completed testing of this system. Also, members that use computer systems provided by service bureaus are not likely to have to perform any additional tests of the systems provided by the service bureaus so long as (i) the service bureaus participate in the SIA coordinated test, (ii) the members have on cured point-to-point testing with their service bureaus, (iii) the service bureaus have conducted point-to-point testing with the CHX, and (iv) the tests do not indicate any problems.

The CHX also believes that test results should be reported to the CHX. These reports will enable the CHX to identify those members that have not adequately prepared for the Year 2000 so that

appropriate action can be taken to address these members' deficiencies, including, for example, providing assistance to or easing the transition of business to other firms. Accordingly, the proposal would require members to file reports with the CHX about the tests. To avoid duplicative and burdensome reporting, the CHX will coordinate its reporting requirements with other SROs as much as possible. For example, the CHX may exclude from its reporting requirement those firms for which the CHX is not the designated examining authority.

The CHX will issue Notices to Members specifying members' reporting and testing obligations sufficiently in advance of specific events, such as SIA-coordinated industry-wide tests, that members will reasonably be able to comply. Regardless of when such Notices are issued, nothing in this rule relieves member firms of their obligations to take all necessary steps so that they may function properly—both their internal systems and their ability to communicate and transact business with other firms—on and after January 1, 2000.

Further, although the CHX is not proposing to require all members of the CHX to conduct external testing, testing is a key element of year 2000 compliance for all firms.<sup>5</sup> Specifically, the CHX still encourages all member firms to test their computer systems and take whatever remedial measures are necessary to deal with Year 2000 issues.

## 2. Statutory Basis

The exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act,<sup>6</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in, in general, to protect investors and the public interest. The CHX rule requiring certain members to conduct or participate in Year 2000 tests, and to file reports about the tests, will enable CHX, those participating in the tests, and others to evaluate the readiness of securities industry for the Year 2000. The firms that would be

required to conduct testing perform critical functions in the markets and these firms' inability to perform these functions beyond January 1, 2000 could cause disruptions in the markets and cause harm to investors.

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

The Exchange goes not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

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

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

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

After careful consideration, the Commission has concluded, for the reasons set forth below, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. Mandating Year 2000 testing and reporting is consistent with section 6(b)(5) of the Act, which, among other aspects, requires that the rules of an exchange promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposed rule change will facilitate the CHX's and member firms' efforts to ensure the securities markets' continued smooth operation during the period leading up to and beyond January 1, 2000.

The Exchange has requested that the Commission approve the rule change prior to the thirtieth day after publication of the proposal in the **Federal Register**, to help ensure that CHX member firms are properly prepared for the SIA industry-wide testing that is scheduled to begin on March 6, 1999. The Commission finds good cause for approving the proposed rule prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**. It is vital that SROs such as CHX have the authority to mandate that their member firms participate in Year 2000 testing and that they report test results (and other Year

<sup>4</sup> The exact number of firms that will be able to participate in the SIA test has not been conclusively determined.

<sup>5</sup> Member firms that choose or are required to participate in external testing should recognize that internal testing is a prerequisite for external testing and participation in SIA-coordinated tests and should act accordingly.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

2000 information) to their SROs. The proposed rule change will help the CHX participate in coordinating Year 2000 testing, including industry-wide testing, and in remediating any potential Year 2000 problems. This, in turn, will help ensure that the industry-wide tests and the CHX's Year 2000 efforts are successful. The proposed rule change will also help the CHX work with its member firms, the SIA, and other SROs to minimize any possible disruptions the Year 2000 may cause.

#### 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. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-98-32 and should be submitted by January 28, 1999.

#### V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act<sup>7</sup> that the proposed rule change is hereby approved on an accelerated basis.<sup>8</sup>

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40843; File No. SR-CSE-98-04]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Cincinnati Stock Exchange, Inc. to Reduce the Exchange's Public Agency Guarantee Size

December 28, 1998.

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 October 26, 1998, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On November 13, 1998, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> 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 hereby proposes to amend the public agency guarantee in CSE Rules 11.9(c)(v) and (n) to reflect recent changes in market conditions. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

#### Rule 11.9. National Securities Trading System

(a) through (b) No Change.  
(c)(i) through (c)(iv) No Change.  
(c)(v) Guarantee the execution up to [2099] 1099 shares at the opening price of opening public agency market orders and limit orders which are priced better than such opening price. If there exist two or more Designated Dealers in a Designated Issue, then, unless the Securities Committee has approved one member as the primary Designated

Dealer in that issue, the guarantee obligation shall rotate among such Designated Dealers on a daily basis.

(d) through (m) No Change.

(n) Public Agency Guarantee

(1) Public agency opening market orders and limit orders better than the opening price which are entered prior to the opening up to [2099] 1099 shares shall be executed at the opening price.

(2) through (3) No Change.

(4) Subject to the requirements of the short sale rule, orders must be filled on the basis of the ITS BBO bid on a sell order or the ITS BBO offer on a buy order. Sell orders will be satisfied up to the size of the lesser of the ITS BBO bid or [2099] 1099 shares; buy orders up to the lesser of the ITS BBO offer or [2099] 1099 shares. No portion of an order larger than [2099] 1099 shares is subject to the public agency guarantee.

(5) through (6) No Change.

(o) through (v) No Change.

\* \* \* \* \*

#### 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 defined 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

##### 1. Purpose

Exchange Rules 11.9(c)(v) and (n) provide an execution guarantee for public agency market and marketable limit orders. Because the Exchange employs a multiple competing specialist system, this execution obligation rotates among the specialists in a particular issue. The specialist upon whom the public agency obligation falls is called the Designated Dealer of the day.<sup>4</sup> Currently, the Designated Dealer of the day is required to satisfy public agency orders up to the size of the lesser of the national best bid (for a sell order) or offer (for a buy order) ("NBBO") or 2099 shares. No portion of an order larger than 2099 shares is subject to the guarantee.

The Exchange proposes to lower the maximum order size of its public agency

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

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

<sup>3</sup> See Letter from Adam W. Gurwitz, Vice President Legal and Corporate Secretary, CSE, to David Sieradzki, Staff Attorney, SEC, dated November 12, 1998. ("Amendment No. 1"). In Amendment No. 1, CSE proposed to change Rule 11.9 (c)(v) to reduce the execution guarantee at the opening price of public agency market orders and limit orders. Additionally, CSE requested that Section 8 of its rule filing be amended to reference the relevant rules regarding the public order guarantee levels of the Philadelphia Stock Exchange, Inc., the Boston Stock Exchange, Inc., and the Pacific Exchange, Inc.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> In approving the proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

<sup>4</sup> See CSE Rules 11.9(a)(3) and 11.9(c)(iv).