

Circumstances, which excepts members from incurring a fee for delayed trade submission. The Exchange notified its membership of this exception in January 1999. Since that time, the Exchange has waived any fees that members would have incurred for delayed submission of trade information. Also, since January, the Exchange continued to believe that these systems problems would be corrected imminently and the fee would be reinstated on the time schedule as stated in the Rule.

The Exchange now believes that this systems problem is corrected, and would like to begin charging the fee to members. The Exchange feels strongly, however, that members should not be held to the 75 minute time allotment which is to be in effect under the Rule because the 90 minutes time allotment for delayed trade submission was never in effect. The Exchange would like to go back to the original time schedule of phasing in the reduction, but without the dates stated in the Rule. The Exchange proposes to allow the appropriate Committee, with appropriate notice to the membership, to determine when the reductions go into effect. The Exchange proposes that the Committee give the membership 30 days notice to phase in the three reductions, and that the Committee mandate each reduction to be not less than three months in duration. The first reduction will go into effect as soon as possible after this rule filing is operative, and notice will be given in the form of a regulatory circular that will go out to the membership with 30 days notice. In the meantime, the Exchange does not intend to hold the membership to the standards of the Rule pending effectiveness of this proposed change. CBOE states this proposed change will give the Committee the flexibility to best manage the time reductions and delayed implementation of the next phase if unforeseen circumstances occur.

2. Statutory Basis

The Exchange finds that the proposed rule change is consistent with Section 6(b) ⁵ of the Act in general and further the objectives of Section 6(b)(5) ⁶ in particular in that it will promote just and equitable principles of trade, protect investors and the public interest, and remove impediments to and perfect the mechanisms of a free and open market.⁷

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ In reviewing this proposal, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

This proposed rule filing has been filed by the Exchange pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹ Consequently, because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative until July 8, 1999, 30 days from June 8, 1999, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

At any time within 60 days of the filing of the 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, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submission should refer to File No. SR-CBOE-99-23 and should be submitted by July 28, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41569; File No. SR-CHX-99-05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc., Relating to a Specialist Assignment Fee for Nasdaq/National Market Securities

June 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 11, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "the 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 Exchange. 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 proposes to amend its membership dues and fees schedule to provide for an increase, from \$500 to \$2000, of the Specialist Assignment Fee charged upon approval of an Exchange specialist's application to serve as the CHX specialist for a Nasdaq/National Market ("Nasdaq/NM") issue. The text of the proposed change is as follows.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6).

Additions are in *italics*; deletions are in brackets.

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MEMBERSHIP DUES AND FEES

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(b) Registration Fee.

Specialist Assignment: There shall also be an assignment fee of \$500 [per issue] *for each Dual Trading System issue and a \$2,000 assignment fee for each NASDAQ/NM issue* upon the approval by the Committee on Specialist Assignment and Evaluation of an application of a member or member organization to act as specialist in *an issue* [security]. However, *for Dual Trading System issues*, this fee shall be applicable in competitive assignments only.

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

In its filing with the Commission, CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed 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 purpose of the proposed rule change is to partially defray the incremental costs of the Exchange's program whereby CHX specialists trade Nasdaq/NM issues (the "OTC/UTP Program"). At present, the only costs recovered by the Exchange in connection with the OTC/UTP Program are certain technology costs, including the costs associated with procuring hardware and software dedicated exclusively to the OTC/UTP Program.³ Given the rapid expansion of the Exchange's OTC/UTP Program, and the corresponding demands on the Exchange's financial and other resources to support such growth, the Executive Committee of the Exchange has determined that an increase in the

Specialist Assignment Fee for Nasdaq/NM issues constitutes the best means of ensuring that the OTC/UTP product line generates revenue sufficient to support further anticipated growth, without placing the financial burden of such growth on the Exchange or those Exchange members that are not part of the OTC/UTP Program. The Exchange believes that the relatively modest proposed increase is reasonable given the financial opportunities generated by serving as a CHX specialist in Nasdaq/NM issues.

The CHX Rules expressly authorize the Exchange to " * * * fix and impose other charges or fees to be paid to the Exchange by members and member organizations * * * for the use of equipment or facilities. * * *"⁴ Proceeding under this authority, the Exchange's Executive Committee, meeting on May 26, 1999, determined that increasing the Specialist Assignment Fee to \$2,000 per Nasdaq/NM issue constituted a reasonable increase and an appropriate means of ensuring that specialist continuity is retained. The Exchange represents that all specialist firms involved in the OTC/UTP Program were represented at the May 28, 1999, meeting of the Exchange's OTC Committee discussing the proposed increase, and no objection was raised.

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with and furthers the objections of Section 6(b)(4) of the Act⁵ in that it provides for the equitable allocation of reasonable dues, fees, and other change among its members.

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

CHX 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 solicited or received. As set forth above, however, the Exchange did present the proposed rule change at a meeting of the Exchange's OTC Committee, which includes representatives of all specialist firms that participate in the OTC/UTP Program. The OTC Committee meeting also is open to any Exchange member that wishes to attend. No objections to

the proposed rule change were articulated at such meeting.

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

The foregoing rule change, which establishes or changes a due, fee, or other charge applicable to members of the Exchange, has become effective pursuant to Section 19(b)(3)(A)⁶ of the Act and subparagraph (f)(2) of Rule 19b-4 thereunder.⁷ At any time within 60 days of the filing of the 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 CHX. All submissions should refer to File No. SR-CHX-99-05, and should be submitted by July 28, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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³ The Commission notes a related recent rule change filed by CHX in this regard, charging OTC/UTP specialists for new technology and dedicated equipment. See Securities Exchange Act Release No. 41526 (June 15, 1999).

⁴ Art. XIV, Rule 7(a).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19B-4(f)(2). In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 17 CFR 200.30-3(a)(12).