

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

CBOE Rule 6.8(e) generally limits the size of RAES orders to twenty or fewer contracts. On August 31, 1999, options on Oracle Corporation (ORQ), Eastman Kodak Company (EK), EMC Corporation (EMC), Merck & Company, Inc. (MRK), Hewlett Packard Company (HWP), Texas Instruments, Inc. (TXN), and Exxon Corporation (XON) were dually listed on the CBOE and the Phlx. Before August 31, each of these option classes was listed solely on the CBOE. The Phlx has announced that the automatic execution size limit for each of these seven option classes is 50 contracts pursuant to Phlx Rule 1080(c).

Therefore, pursuant to CBOE Rule 6.8 and Interpretation and Policy .01, the CBOE proposes to increase the RAES eligible order size limit in ORQ, EK, EMC, MRK, HWP, TXN, and XON to 50 contracts, to match the eligible order size on the automatic execution system of the Phlx, effective August 31, 1999.³

The Exchange represents that RAES has the capacity to accommodate at RAES order limit size of up to 50 contracts in ORQ, EK, EMC, MRK, HWP, TXN, and XON, both in terms of systems capacity as well as the market-making capacity of market-makers participating in RAES.

2. Statutory Basis

The exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of sections 6(b)(5) and 6(b)(8) of the Act in particular, in that it is designed to remove unnecessary burdens on competition, as well as remove impediments to and perfect the mechanism of a free and open market and a national market system, for the benefit of investors and the public interest.

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

The CBOE does not believe that the proposed rule change will impose any 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 with respect to the proposed rule change.

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

Because the foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange, it has become effective pursuant to Section (19)(b)(3)(A)(i) of the Act and subparagraph (f)(1) of Rule 19b-4 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 in 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 submissions should refer to File No. SR-CBOE-99-50 and should be submitted October 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41855; File No. SR-CHX-99-10]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc., To Expand the SuperMax Plus Price Improvement Algorithm to Nasdaq/NM Securities

September 10, 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 August 6, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") 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 grant accelerated approval to the proposed rule change.

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

The Exchange proposes to expand its SuperMax Plus price improvement algorithm, located in CHX Rule 37(d) of Article XX, to cover Nasdaq/National Market ("Nasdaq/NM") securities. The text of the proposed rule change is available at the Office of the Secretary, CHX and at the Commission.

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 III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

³ Subsequently, the Commission approved a proposed rule filing by the CBOE to increase the size limit of RAES orders in most options classes to 50 contracts. See Securities Exchange Act Release No. 41821 (September 1, 1999) (SR-CBOE-99-17).

⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

On May 22, 1995, the Commission approved a proposed rule change allowing CHX specialists to provide order execution guarantees through the Exchange's MAX system that are more favorable than those required under CHX Rule 37(a), Article XX.³ That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options available under the new rule, as approved.

SuperMax Plus is an existing CHX program within the MAX System that uses a computerized algorithm to provide automated price improvement.⁴ Currently, the SuperMax Plus program, like all other automated price-improvement programs at the CHX, is limited to Dual Trading System issues (*i.e.*, issues traded on both the CHX and either the New York Stock Exchange or the American Stock Exchange). The CHX now proposes to expand the SuperMax Plus program to include Nasdaq/NM securities traded on the Exchange. The CHX represents that this change will provide orders in Nasdaq/NM securities with the same automated price improvement benefits that are available for orders in Dual Trading System issues.⁵

The expanded SuperMax Plus program will be part of the existing voluntary price improvement programs in which specialists may choose to participate. Participation will continue to be on a security-by-security basis. A specialist will only be able to activate and deactivate the program with respect to a given security once a month.

³ See Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995) (File No. SR-CHX-95-08).

⁴ See Securities Exchange Act Release Nos. 40017 (May 20, 1998), 63 FR 29277 (May 28, 1998) and 40235 (July 17, 1998), 63 FR 40147 (July 27, 1998) (File No. SR-CHX-98-09) (approving revised SuperMax and Enhanced SuperMax algorithms).

⁵ The execution algorithm for SuperMax Plus, as it applies to Dual Trading System issues, will differ from the execution algorithm for SuperMax Plus, as it is proposed to be applied to Nasdaq/NM Securities. The existing SuperMax Plus algorithm uses primary market sales and the Intermarket Trading System ("ITS") best bid or offer as factors in determining price improvement. Nasdaq/NM Securities do not have a primary market equivalent and do not have an ITS best bid or offer. In addition, the existing SuperMax Plus and Enhanced SuperMax algorithms will continue to be available only for Dual Trading System issues. See Securities Exchange Act Release No. 41480 (June 4, 1999), 64 FR 32570 (June 17, 1999).

Under the SuperMax Plus algorithm for Nasdaq/NM securities, if the SuperMax Plus program has been engaged for such security, small agency market orders (*i.e.*, orders from 100 shares to 199 shares (or a greater amount chosen by the specialist and approved by the Exchange)) will automatically receive $\frac{1}{16}$ th of a point price improvement from the National Best Bid or Offer ("NBBO") if the market for the security is quoted with a spread of $\frac{1}{8}$ th of a point or greater. If the spread between the national best bid and national best offer for such a security is less than $\frac{1}{8}$ th of a point, the order will automatically be immediately executed at such NBBO (*i.e.*, a buy order will be executed at the offer and a sell order will be executed at the bid).

Timing of Effectiveness of System Changes. The addition of SuperMax Plus to Nasdaq/NM securities will become operative shortly after approval of this proposed rule change on a date to be determined by the Exchange. The Exchange will announce this date in a Notice to Members issued within 30 days of the date of Commission approval of the proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) ⁶ of the Act in that it is designed to promote just and equitable principles of trade, 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. The Exchange believes that the proposed rule change accomplishes these ends by increasing the number of trades that will receive automated price improvement.

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

The Exchange represents that the proposed rule change will impose no 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 with respect to the proposed rule change.

III. 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-99-10 and should be submitted by October 12, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The CHX requests accelerated approval of the proposed rule change. The Commission has reviewed the CHX's proposed rule change and finds, for the reasons set forth below, that the proposal is consistent with the requirements of Section 6 of the Act ⁷ and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act,⁸ 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 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.⁹ The Commission believes expanding the SuperMax Plus program to Nasdaq/NM securities will provide investors with enhanced investment opportunities because price improvement from the NBBO will be available if the market for a Nasdaq/NM security is quoted with a spread of $\frac{1}{8}$ th of a point or greater. The Commission notes that while SuperMax Plus is a voluntary program that specialists choose to participate in for Dual Trading

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

⁹ In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

System issues and, now, Nasdaq/NM securities, providing a greater number of investors an opportunity to achieve price improvement is compatible with the views expressed in the Order Handling Rules release.¹⁰

Because the provision of price improvement for Nasdaq/NM securities should enhance small investor participation in the securities market, without sacrificing investor protection and the public interest, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CHX-99-10) is hereby approved on an accelerated basis.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41858; File No. SR-NASD-99-38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Increase the Examination Development Fee Payable to the New York Stock Exchange, Inc.

September 10, 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 August 6, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association") 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 NASD. 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 NASD proposes to amend Section 2(d) of Schedule A of the NASD By-Laws to reflect a recent increase to the examination development fee payable to the New York Stock Exchange, Inc. ("NYSE"), by NASD members taking the General Securities Representative Examination ("Series 7 Exam"). Additions are italicized; deletions are bracketed.

Section 2—Fees

* * * * *

(d) There shall be a New York Stock Exchange examination development fee of [\$40.00] *\$90.00* assessed as to each individual who takes a Series 7 examination for registration as a general securities representative. This fee is in addition to the registration and examination fees described in paragraphs (b) and (c) respectively.

* * * * *

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 NASD 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 NASD 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 NASD proposes to amend Schedule A of its By-Laws to reflect an increase in the NYSE Series 7 Exam development fee from \$40 to \$90.³ The NASD has represented that it collects this fee from its members in connection with its administration of the Central Registration Depository ("CRD")

program.⁴ After it collects the fee, the NASD passes the proceeds of the fee to the NYSE to cover the costs of providing qualification examination programs.

The NASD proposes to make the rule change effective on or about September 15, 1999. The effective date was announced on August 18, 1999, in a Notice To Members.⁵

2. Statutory Basis

The NASD represents that it believes the proposed rule change is consistent with the provisions of Section 15A(b)(5)⁶ of the Act, which requires, among other things, that the Association's rules must provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Association operates or controls.

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

The NASD represents that it does not believe that the proposed rule change will result in any 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

Written comments were neither solicited nor received.

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)(ii)⁷ of the Act and subparagraph (f)(2) of Rule 19b-4⁸ thereunder in that it is a change to a due, fee, or other charge imposed by the NASD. 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,

⁴ Telephone conversation between Mary Dunbar, Associate General Counsel, National Association of Securities Dealers Regulation, Inc. ("NASDR"), and Gordon Fuller, Special Counsel, and Matthew Boesch, Paralegal, Division of Market Regulation, Commission (August 17, 1999).

⁵ Letter from Alden Adkins, Senior Vice President and General Counsel, NASDR, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated August 20, 1999.

⁶ 15 U.S.C. 78o-3(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240-19b-4(f)(2).

¹⁰ See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (File No. S7-30-95).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The NYSE charges its members and member organizations an examination development fee for each individual taking the Series 7 Exam to recover the costs of providing qualification examination programs. On June 17, 1999, the NYSE filed a proposed rule change with the Commission increasing its examination development fee from \$40 to \$90. See Securities Exchange Act Rel. No. 41548 (June 22, 1999), 64 FR 35231 (June 30, 1999). The NYSE initially adopted in 1986 an examination development fee of \$10; it increased this fee to \$40 in 1990.