

Index.<sup>5</sup> Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading options on the Index.

## 2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>6</sup> in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

### 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

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 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-AMEX-97-33 and should be submitted by January 22, 1998.

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

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 97-32527 Filed 12-11-97; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39403; File No. SR-CHX-97-20]

### Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Defining the Scope and Application of the Guarantee Available Under the Exchange's Guaranteed Execution System

December 4, 1997.

#### I. Introduction

On September 12, 1997, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to clarify the scope and application of the guarantee available under the Exchange's Guaranteed Execution System ("BEST System").

The proposed rule change was published for comment in Securities Exchange Act Release No. 39249 (Oct. 16, 1997), 62 FR 55443 (Oct. 24, 1997). No comments were received on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The provision currently governing the BEST System, Exchange Rule 37(a) of Article XX, states that, subject to certain exceptions, specialists must accept and guarantee execution of all agency orders<sup>3</sup> and fill such orders on the basis

of the Intermarket Trading System ("ITS") Best Bid or Best Offer ("BBO")<sup>4</sup> for Dual Trading System issues and the NBBO<sup>5</sup> for Nasdaq/NM issues. The proposed rule change would amend Exchange Rule 37(a) to eliminate any ambiguity concerning the scope and application of the guarantee available under the BEST System and would make it clear that the guarantee is limited to both the size and price associated with the ITS BBO or NBBO.

#### III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular with the requirements of Section 6(b).<sup>6</sup> In particular, the commission believes the proposed rule change is consistent with the Section 6(b)(5) requirements that the rules of an exchange be 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.

Each bid and offer, including the ITS BBO and NBBO, contains two components—price and size. Because the Exchange's BEST Rule requires a specialist to accept and guarantee the execution of an agency market order on the basis of the ITS BBO or NBBO, the Exchange has consistently interpreted this guarantee as applying to both the size and price associated with that best bid or offer. However, the current text of the BEST Rule does not explicitly state that the guarantee is qualified in such a manner. To eliminate any uncertainty concerning the breadth of the guarantee, the proposed rule change adds the words "size and price associated with" to the BEST Rule to clarify that the guarantee available under the BEST System is limited to both the size and price associated with the ITS BBO or NBBO.

The proposed rule change is consistent with the automatic execution parameters employed by the Exchange's Midwest Automated Execution System ("MAX").<sup>7</sup> Automatic execution of a

<sup>4</sup> The ITS BBO is the best bid/offer quote among the American, Boston, Cincinnati, Chicago, New York, Pacific, and Philadelphia Stock Exchanges or the Intermarket Trading System/Computer Assisted Execution System, as appropriate.

<sup>5</sup> The NBBO is the best bid or offer disseminated pursuant to SEC Rule 11Ac1-1.

<sup>6</sup> 15 U.S.C. § 78f(b).

<sup>7</sup> The MAX System provides an automated delivery and execution facility for orders that are

Continued

<sup>5</sup> See Amendment No. 1, *supra* note 3.

<sup>6</sup> 15 U.S.C. § 78f(b).

<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.

<sup>3</sup> For purposes of Exchange Rule 37, "agency order" means an order for the account of a customer but does not include professional orders.

market order through the MAX System is qualified by Exchange Rule 37(b)(11), Article XX, which states that "notwithstanding anything in this Rule to the contrary, no market order or limit order that is marketable when entered into the MAX System will be automatically executed if the size associated with the ITS BBO or NBBO, as the case may be, is of a size less than such market order or limit order."

The Commission believes that the proposed rule change will bring about certainty in the application of the Exchange's BEST System guarantee. Although the Exchange currently interprets the scope of the BEST System guarantee as being restricted by the price and size parameters, the absence of such criteria in the text of the BEST Rule may cause confusion among those entitled to use the BEST System.<sup>8</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-CHX-97-20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jonathan G. Katz,**  
Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39405; File No. SR-MBSCC-97-5]

#### Self-Regulatory Organizations; MBS Clearing Corporation; Order Approving a Proposed Rule Change Regarding Participant Liability for Transactions Submitted on Behalf of Nonparticipants

December 5, 1997.

On August 1, 1997, MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-MBSCC-97-5) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on September 26,

eligible for execution under the Exchange's BEST Rule and certain other orders. *see* Exchange Rule 37(b).

<sup>8</sup> Exchange Rule 37(a) states that the BEST System is available to exchange member firms and members of participating exchanges.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

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

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

1997.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

Pursuant to MBSCC's current rules, participants that process any contracts or other transactions through MBSCC for other participants are liable as principal for such contracts or transactions. The proposed rule change clarifies that participants also are liable as principal for any contracts or other transactions submitted to MBSCC on behalf of entities that are not participants ("nonparticipants") and that nonparticipants are not deemed to possess any rights or benefits of participants.

As a result, MBSCC will treat all of a participant's accounts<sup>3</sup> and obligations as belonging to such participant regardless of the identity of the underlying party. Thus, a participant's participant fund<sup>4</sup> deposits will be available for all of the participant's transactions regardless of the source.

#### II Discussion

Section 17A(b)(3)(F) of the Act<sup>5</sup> requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. The Commission believes that the proposed rule change adds certainty as to the treatment of the positions submitted on behalf of nonparticipants upon default of a participant. Thus, the proposal should enhance MBSCC's ability to protect itself and its participants against loss. Therefore, the Commission believes that MBSCC's proposal is consistent with its obligations to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

#### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act

<sup>2</sup> Securities Exchange Act Release No. 39103 (September 22, 1997), 62 FR 50646.

<sup>3</sup> According to MBSCC's rules, the term "account" generally means any account maintained by MBSCC on behalf of a participant for the comparison, margining, and clearing trades.

<sup>4</sup> According to MBSCC's rules, the term "participant fund" means the fund for which provision is made in Article IV to which participants are required to make basic deposits, minimum market margin differential deposits, and market margin differential deposits.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-MBSCC-97-5) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 97-32485 Filed 12-11-97; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39408; File No. SR-Philadep-97-05]

#### Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Unclaimed Dividends and Distributions

December 5, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 25, 1997, Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by Philadep. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested parties and to grant accelerated approval.

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

Under the proposed rule change, Philadep will amend its rules governing unclaimed dividends and distributions.<sup>2</sup> The amendments reflect undertakings recently agreed to by Philadep in connection with settling an administrative proceeding with the Commission.<sup>3</sup>

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The text of the proposed amendments was submitted with Philadep's rule filing and is available for inspection and copying at the Commission's Public Reference Room and through the principal office of Philadep.

<sup>3</sup> Securities Exchange Act Release No. 38918 (August 11, 1997) (order instituting proceedings pursuant to Section 19(h) and 21C of the Act, making findings, and imposing remedial sanctions) [Administrative Proceeding File No. 3-9360] ("Order").