

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39822; File No. SR-CHX-98-5]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Utilization of Exempt Credit by Market Makers

March 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on February 18, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 Exchange proposes to amend an interpretation to Article XXXIV, Rule 16 of its rules relating to registered market makers' utilization of exempt credit.²

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 purpose of the proposed rule change is to modify an interpretation

regarding market makers and exempt credit. Interpretation .01 to Article XXXIV, Rule 16 sets forth certain parameters that market makers must satisfy to obtain exempt credit for financing their market maker transactions. The Interpretation specifies that 50% of the quarterly share volume which creates or increases a position in a market maker account must result from transactions consummated on the Exchange or sent from the Exchange floor for execution in another market via the Intermarket Trading System ("ITS"). The Exchange seeks to modify this interpretation by eliminating the reference to "creating or increasing a position," thereby including all transactions consummated on the Exchange or sent from the Exchange floor via ITS in determining a market maker's ability to use exempt credit.

In providing assistance in maintaining a fair and orderly market, a market maker may be required to decrease either a long or a short position in a particular security. Thus, a market maker may from time to time engage in transactions that decrease its position which contributes to the depth and liquidity of the market. The proposed change in interpretation would make it clear that transactions that decrease a position in a market maker account will be treated the same way as those that create or increase a position for purposes of determining compliance with the 50% volume requirement in order to obtain exempt credit.

The proposed interpretation is consistent with the policies of other exchanges. For example, both the Pacific Exchange and the Chicago Board Options Exchange consider *total* transactions in determining whether a market maker has executed a certain percentage of its transactions in person.³

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5)⁴ 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.

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

The Exchange 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

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

Within 35 days of the date of 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 such 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, including whether the submission 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. 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 Room 450 Fifth Street, N.W., Washington, D.C. 25049. 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-98-5 and should be submitted by April 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz,
Secretary.

[FR Doc. 98-9131 Filed 4-7-98; 8:45 am]

BILLING CODE 8010-01-M

¹ 15 U.S.C. 78s(b)(1).

² The Board of Governors of the Federal Reserve System is authorized, pursuant to Section 7 of the Act, to establish initial margin requirements and credit restrictions on margin financing. 12 CFR §§ 220 and 221. Bona fide market making activity, however, may be exempt from these credit restrictions. As a result, a market maker may arrange for margin financing on the basis of its credit worthiness.

³ See Pacific Exchange Rule 6.32, Commentary .02; and Chicago Board Options Exchange Rule 8.7, Interpretation .03.

⁴ 15 U.S.C. 78f(b)(5).

⁵ 17 CFR 200.20-3(a)(12).