

Committee to impose a Surcharge, the Committee will notify the Board of any such action at the Board meeting following the Committee's decision to impose a Surcharge.³⁸ This notification will ensure that the Exchange is made aware of the Committee's action and give the Exchange an opportunity to eliminate or change the fee if it decides to do so. All Surcharges would of course need to be filed with the Commission.

The Commission believes that these safeguards should help to ensure that any Surcharge is imposed fairly and in a manner designed to promote interexchange competition. Ultimately, such enhanced competition should benefit the markets and investors.

D. Accelerated Approval of Amendment No. 1

The Commission finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the *Federal Register*. In Amendment No. 1, CBOE changed the proposal in significant ways to respond to the concerns raised by DOJ and Commission staff. Specifically, Amendment No. 1, among other things, proposed to cap the Market-Maker Surcharge at \$0.25 per contract, to grant the authority to impose the Surcharge to the Committee rather than to the Resident Market-Makers, and to operate the proposal as a pilot program. Because the amendment responds to the Commission's concerns and those of DOJ, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the rule proposal, including whether the amendment 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 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 Exchange. All submissions should refer to File No. SR-CBOE-98-35 and should be submitted by March 24, 1999.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁹ that the proposed rule change (SR-CBOE-98-35) as amended is approved through March 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-5719 Filed 3-8-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41120; File No. SR-CSE-98-04]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Approving Proposed Rule Change to Reduce its Public Agency Guarantee Size

February 26, 1999.

I. Introduction

On October 26, 1998¹ the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ a proposed rule change to reduce the CSE public agency guarantee size. Notice of the proposal appeared in the *Federal Register* on January 7, 1999.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of Proposal

The Exchange proposed to amend the public agency guarantee in CSE Rules 11.9(c)(v) and (n). CSE Rules 11.9(c)(v) and (n) provide an execution guarantee for public agency market and

marketable limit orders. Currently, public agency orders up to the size of the lesser of the national best bid or offer ("NBBO") or 2099 shares are guaranteed. No portion of an order larger than 2099 shares is subject to the guarantee. The Exchange proposed to lower the maximum order size of its public agency guarantee. The proposed rule change would lower the size of the public agency guarantee to the lesser of the NBBO or 1099 shares. The public agency guarantee would otherwise remain unchanged.

The Exchange believes that its specialists are exposed to adverse risk in a more volatile trading environment due to higher volume levels and the National Market System change to quoting and trading securities in increments less than 1/8th of a dollar. The Exchange believes that lowering the public agency guarantee will lower the risk its specialists currently experience to a reasonable level. Additionally, the Exchange represents that lowering the public agency guarantee from 2099 to 1099 shares should not significantly impact customers since the majority of customer orders are less than 1000 shares.⁵

III. Discussion

After careful review, 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 exchange⁶ and, in particular, the requirements of Section 6.⁷ The Commission believes that the proposal is consistent with the provisions of Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposal should reduce the risk experienced by the Exchange's specialists without significantly affecting the proper execution of public agency orders. Thus, the Commission concludes that the proposal will strike an appropriate balance between the risk incurred by the Exchange's specialists during a volatile trading environment and the policy to ensure the best possible execution of orders for public investors. Therefore, the Commission believes that lowering the size of the

³⁹ 15 U.S.C. 78s(b)(2).

⁴⁰ 17 CFR 200.30-3(a)(12).

¹ The Exchange initially filed this proposal on October 26, 1998. However, on November 12, 1998, the Exchange filed Amendment No. 1 the substance of which was incorporated into the notice.

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ Securities Exchange Act Release No. 40843 (December 28, 1998), 64 FR 1048.

⁵ Telephone conversation between David Colker, President, CSE, and John Roeser, Attorney, Division of Market Regulation, SEC on February 25, 1999.

⁶ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f.

³⁸ See Amendment No. 1, *supra* note 5.

public agency guarantee to the lesser of the NBBO or 1099 shares is reasonable and consistent with the Act.

IV. Conclusion

For the foregoing reasons, the Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5).⁸

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-CSE-98-04) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-5720 Filed 3-8-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending February 26, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST-99-5136

Date Filed: February 23, 1999

Parties: Members of the International Air Transport Association

Subject:

PTC2 EUR-AFR 0067 dated February 19, 1999 r1

PTC2 EUR-AFR 0068 dated February 19, 1999 r2

PTC2 EUR-AFR 0069 dated February 19, 1999 r3

PTC2 EUR-AFR 0070 dated February 19, 1999 r4

Europe-Africa Expedited Passenger Resolutions

Intended effective date: March 15, 1999.

Docket Number: OST-99-5138

Date Filed: February 23, 1999

Parties: Members of the International Air Transport Association

Subject:

PTC23 EUR-SEA 0065 dated

December 18, 1998

Europe-Southeast Asia Resolutions r1-30

Minutes—PTC23 EUR-SEA 0069

dated February 19, 1999
Tables—PTC23 EUR-SEA Fares 0014
dated January 12, 1999

Corrections—PTC23 EUR-SEA 0066
dated January 12, 1999

PTC23 EUR-SEA 0068 dated February 9, 1999

PTC23 EUR-SEA Fares 0015 dated
January 22, 1999

PTC23 EUR-SEA Fares 0016 dated
February 5, 1999

r-1—001LL r-11—058b r-21—
078g

r-2—001ss r-12—059b r-22—078i

r-3—002 r-13—065b r-23—078o

r-4—014a r-14—065bb r-24—
081bb

r-5—017c r-15—068b r-25—081p

r-6—015v r-16—069b r-26—081v

r-7—045b r-17—071hh r-27—
084cc

r-8—048b r-18—071z r-28—084h

r-9—049b r-19—072x r-29—084jj

r-10—055b r-20—076tt r-30—
086c

Intended effective date: April 1, 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99-5745 Filed 3-8-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending February 26, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST-99-5133.

Date Filed: February 22, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: March 22, 1999.

Description: Application of AvAtlantic Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q, requests authority to engage in scheduled air transportation of persons,

property and mail between a state, territory, or possession of the United States.

Docket Number: OST-99-5134.

Date Filed: February 22, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: March 22, 1999.

Description: Application of AvAtlantic Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart, requests authority to engage in foreign charter air transportation of persons, property and mail.

Docket Number: OST-99-5140.

Date Filed: February 23, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: March 23, 1999.

Description: Joint Application of Fine Air Services Corp. and Arrow Air, Inc. pursuant to 49 U.S.C. Section 41105 and Subpart Q, applies for approval of the de facto transfer of the certificates and other economic authorities now held by Arrow to Fine Corp.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99-5746 Filed 3-8-99; 8:45 am]

BILLING CODE 4910-62-P 2

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Research and Special Programs Administration

Notification of Department-wide Program Evaluation of the Hazardous Materials Transportation Program

AGENCY: Office of Inspector General and Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice.

SUMMARY: DOT is announcing the initiation of an internal Department-wide Program Evaluation of the Hazardous Materials Transportation Programs (HM Program Evaluation). This DOT-wide Program Evaluation is being led by the department's Office of Inspector General and RSPA. The objectives of the HM Program Evaluation are to document and assess the modal hazardous materials programs within the Department, and determine whether these programs can be accomplished more effectively and efficiently. The results of the ongoing HM Program Evaluation will be reported to the public in DOT's FY 1999 Program Performance Report no later than March 31, 2000.

FOR FURTHER INFORMATION CONTACT: Jackie Goff, 202-493-0326, or George

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).