

more than one assignment to the same market maker as the assignment rotation continues.

Variable RAES will apply to all classes of options eligible for entry into RAES. CBOE represents that the Variable RAES procedure will be implemented following the effectiveness of this proposed rule change, and will be described in a circular to be distributed to the membership prior to that time. To allow for a period of adjustment, CBOE states that the Variable RAES procedure may be implemented across option classes in phases. Finally, if the appropriate FPC decides to implement a different RAES order assignment procedure, it must file a proposed rule change with the Commission pursuant to Section 19(b) of the Act and Rule 19b-4 thereunder.

In addition, the proposed rule change authorizes the appropriate FPC to establish a "step up amount" for purposes of the automatic step-up procedure of Interpretation and Policy .02 under Rule 6.8 that is greater than the current amount, which equals the minimum quote interval ("tick") for that class of option under Rule 6.42. The automatic step-up procedure currently states that in designated classes of multiply-traded options, if the Exchange's best bid or offer is inferior to the bid or offer in another market by no more than one tick, an order in RAES will be automatically executed at the better bid or offer. The proposed rule change will enable the appropriate FPC to establish price differentials greater than one tick at which orders will be automatically executed in RAES in order to match better bids or offers in other markets.

By enhancing the Exchange's ability to provide instantaneous, automatic execution of public customers' orders at the best available prices, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) ⁷ of the Act in general, and furthers the objectives of Section 6(b)(5) ⁸ of the Act in particular, in that it will promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market, and protect investors and the public interest.

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

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

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.

VI. 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 CBOE. All submissions should refer to File No. SR-CBOE-99-17 and should be submitted by July 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-15352 Filed 6-16-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41480; File No. SR-CHX-99-04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc., To Add a New Price Improvement Algorithm, SuperMax Plus

June 4, 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 May 10, 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 add a new price improvement algorithm, SuperMax Plus, to Rule 37 of Article XX of the Exchange's rules. 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.

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 of the

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

CHX that allows specialists on the Exchange, through the Exchange's MAX system, to provide order execution guarantees 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 this new rule.

SuperMax and Enhanced SuperMax are two existing CHX programs within the MAX System that use computerized algorithms to provide automated price improvement. Both of these programs have been approved by the Commission on a permanent basis.⁴ The CHX now proposes to add a new program, SuperMax Plus, as a third program within the MAX System. The Exchange believes that it is important to remain competitive in an ever increasing technologically advanced marketplace. In order to do so, the Exchange is proposing SuperMax Plus, a new, more aggressive price improvement algorithm that increases the likelihood that small investors will receive price improvement for their orders.⁵

Background

The existing SuperMax program is a voluntary program in which a specialist may choose to participate. Participation is on a security-by-security basis and is currently limited to Dual Trading System issues (*i.e.*, issues traded on both the CHX and either the New York Stock Exchange or American Stock Exchange). A specialist can only activate and deactivate the program with respect to a given security once a month.

Under the current SuperMax algorithm, small agency market orders (*i.e.*, orders from 100 shares to 499 shares (or a greater amount chosen by the specialist)) are eligible for price improvement if the market for the security is quoted with a spread of $\frac{1}{8}$ of a point or greater. Specifically, the current algorithm provides $\frac{1}{16}$ th of a point price improvement from the ITS BBO⁶ (the ITS best offer for a buy order,

and the ITS best bid for a sell order) if an execution at the ITS BBO would be at least $\frac{1}{8}$ th of a point higher than (for a buy order) or lower than (for a sell order) the last primary market sale.

The Enhanced SuperMax program is an add-on feature for securities for which the Exchange's SuperMax program has already been activated. Thus, the Enhanced SuperMax program is only available when SuperMax is already enabled for that security.

Under the Enhanced SuperMax algorithm, small agency market orders (*i.e.*, orders for 500 to 2099 shares (or a greater amount chosen by the specialist))⁷ are eligible for price improvement if the market for the security is quoted with a spread of $\frac{3}{16}$ th of a point. Specifically, the algorithm "stops" an eligible order at the ITS BBO if the execution at the ITS BBO would be at least $\frac{1}{8}$ th of a point higher than (for a buy order) or lower than (for a sell order) the last primary market sale. Enhanced SuperMax flags an order stopped under this program with a "U." Once stopped, the order receives $\frac{1}{16}$ th of a point price improvement over the stopped price if the next primary market sale occurs before the end of the time-out period and the sale is at least $\frac{1}{8}$ th of a point lower than (for a buy order) or higher than (for a sell order) the stopped price.

Proposal

As stated above, the Exchange proposes to create a new price improvement algorithm, to be called SuperMax Plus. SuperMax Plus will become 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 and will be limited to Dual Trading System issues. A specialist will only be able to activate and deactivate the program with respect to a given security once a month. The existing SuperMax and Enhanced SuperMax algorithms will then both become add-on features for securities for which the Exchange's new SuperMax Plus program has already been activated. Thus, the existing SuperMax and Enhanced SuperMax

programs will only be available when SuperMax Plus is activated for a particular security.

Under the new proposed SuperMax Plus algorithm, 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) would be eligible for price improvement if the market for the security is quoted with a spread of $\frac{1}{8}$ th of a point or greater. The new algorithm would provide $\frac{1}{16}$ th of a point higher than (for a buy order) or lower than (for a sell order) the last primary market sale.⁸

The Exchange further proposes revising the existing SuperMax algorithm so that it applies to orders between 200 and 499 shares.⁹ The existing Enhanced SuperMax algorithm will not change.

As proposed, specialists that choose to engage one or more price improvement algorithms will have to engage the SuperMax Plus for at least up to 199 shares. In addition, once a specialist engages SuperMax Plus for 199 shares, the specialist must either engage SuperMax for orders between 199 shares and 500¹⁰ shares or increase the maximum size order that is eligible for SuperMax Plus to 499 shares. This proposed requirement will ensure that once a specialist decides to offer automated price improvement, one or more price improvement algorithms will be available for orders of up to at least 499 shares.

Finally, the proposed rule change deletes a reference contained in the Enhanced SuperMax rules to orders for 200 shares or less entered by the Odd-Lot Execution Service because Enhanced SuperMax is not eligible for orders that are less than 500 shares.

Timing of Effectiveness of System Changes

The Exchange expects that the addition of SuperMax Plus and the

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) (File No. SR-CHX-98-09) 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 While the Exchange is also proposing conforming changes to the existing MAX rules to accommodate the new program, no substantive changes are being made to SuperMax and Enhanced SuperMax, the existing price improvement algorithms, at this time.

⁶ As used in the CHX rules, ITS BBO means the best bid or offer among the American, Boston,

Cincinnati, Chicago, New York, Pacific, and Philadelphia exchanges or the Intermarket Trading System/Computer Assisted Execution System quote. See CHX Art. XX, Rule 37(a)(2).

⁷ Notwithstanding the 500 share minimum order size contained in the rule, the smallest size order eligible for Enhanced SuperMax must always be at least one share greater than the largest size order in such security that is eligible for SuperMax. In other words, if a specialist voluntarily increases the maximum order size for SuperMax, the minimum order size for Enhanced SuperMax must be increased accordingly.

⁸ This provides better price improvement than under the current SuperMax algorithm where $\frac{1}{16}$ th of a point price improvement is provided if an ITS BBO execution would be at least $\frac{1}{8}$ th of a point away from the last sale.

⁹ Notwithstanding the 200 share minimum order size contained in the new proposed rule for SuperMax, the smallest size order eligible for SuperMax must always be at least one share greater than the earliest size order in such security that is eligible for SuperMax Plus. In other words, if a specialist voluntarily increases the maximum order size for SuperMax Plus, the minimum order size for SuperMax must be increased accordingly.

¹⁰ The original filing reflected 499 shares but was changed to 500 as per conversation between Paul O'Kelly, Executive Vice President, Legal/Market Regulation, CHX and Heather Traeger, Attorney, Division of Market Regulation, SEC, on June 4, 1999.

corresponding changes to the other price improvement algorithms will become operative immediately upon approval of this proposed rule change by the Commission; the Exchange expects to implement this change June 15, 1999.¹¹

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5)¹² 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, 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 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-99-04 and be submitted by July 8, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of 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 Act¹³ 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,¹⁴ 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 trisections 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.¹⁵ The Commission believes the new price improvement contemplated by the new SuperMax Plus will provide investors with enhanced investment opportunities because price improvement from the ITS BBO will be available if an execution at the ITS BBO would be at least 1/16th of a point higher than (for a buy order) or lower than (for a sell order) the last primary market sale, instead of the 1/8th requirement under SuperMax and Enhanced SuperMax. The Commission notes that while SuperMax Plus is a voluntary program that specialists choose to participate in for Dual Trading System issues, providing a greater number of investors an opportunity to achieve price improvement is compatible with the views expressed in the Order Handling release.¹⁶

Because provision of price improvement should enhance small investors participation in the securities market, without sacrificing investor protection and the public interest, the Commission therefore 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,¹⁷ that the proposed rule change (SR-CHX-99-04) is hereby on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-15350 Filed 6-16-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-4182; File No. SR-CHX-99-3]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc., Concerning an Increase in the BEST Rule Guarantee and the Minimum Order Acceptance Level in the MAX System

June 4, 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 May 7, 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 filing was amended on May 26, 1999.³ The proposed rule change, as amended, has been filed by CHX as a "non-controversial" rule change under Rule 19b-4(f)(6)⁴ under the Act.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.3-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Kirsten M. Carlson, Foley & Lardner, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated May 25, 1999 ("Amendment No. 1").

⁴ 17 CFR 240.19b-4(f)(6).

⁵ CHX originally filed this proposal under Rule 19b-4(e)(5). Amendment No. 1 amended this to Rule 19b-4(f)(6). As requested by CHX, the Commission will consider the original filing, dated May 6, 1999, as the pre-filing notice required by Rule 19b-4(f)(6). The Amendment No. 1 filing date (May 26, 1999) will be considered the formal filing date of the rule change.

¹¹ Conversation between David Rusoff, Foley & Lardner and Mandy Cohen, Senior Counsel, Division of Market Regulation, SEC on May 28, 1999.

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 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).

¹⁶ See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (File No S7-30-95).