

standards governing the composition of the Index, and is necessary because the Index Options Filing did not explain what action the Exchange might take in the event that discretionary changes were made to the DJIA.

The "Dogs of the Dow" investment strategy, upon which the Index is based, generally requires that the portfolio of ten stocks selected from DJIA at the beginning of a calendar year be held for the entire year, even if certain of those ten stocks are removed from the DJIA before the end of the year. The Exchange represented that mutual funds employing the Dogs of the Dow investment strategy indicated that they will leave their ten stock portfolios unchanged through the end of 1999. Moreover, market participants have informed the Exchange that they expect the composition of the Index to remain unchanged despite the recent DJIA component changes.

In the Index Options Filing, the Exchange stated that the Index would be reconstituted annually using the ten highest yielding stocks in the DJIA, as determined at the end of each calendar year. From the time it first listed options on the Index, the Exchange did not intend to revise the Index before year end if discretionary changes were made to the DJIA components. Therefore, the Exchange seeks to adopt the stated policy specifying that Index components removed from the DJIA during the calendar year for discretionary reasons will not be replaced in the Index until the Index is reconstituted at year end.

The Exchange believes that it is in the best interest of investors for the Exchange to act consistently with the investment community at-large in applying the Dogs of the Dow investment strategy to determine the Index portfolio. Thus, the Exchange did not revise the composition of the Index when the DJIA component changes took effect on November 1, 1999. The four DJIA components that were replaced (Chevron, Goodyear Tire & Rubber, Sears Roebuck, and Union Carbide) will remain in the Index until the Index is reconstituted after the end of 1999.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act⁴ in that it promotes just and equitable principles of trade, and removes impediments to and perfects the mechanisms of a free and open market. The Exchange further believes that clarification of the maintenance standards governing the

Index will help provide for fair and orderly maintenance of the Index.⁵

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

The Exchange believes that the proposed rule change will not impose 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

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

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

Because the foregoing proposed 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 upon filing pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(1) thereunder.⁷ 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, NW, Washington, DC 20549-0609. 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 persons, 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

⁵ In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(1).

Section, Fifth Street, NW, Washington, DC 20549. 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-CBOE-99-58 and should be submitted by December 29, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42189; File No. SR-CHX-99-12]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Stock Exchange, Inc. To Modify the Recommended Fine Schedule for the Submission of Late Financial and Operational Reports

December 1, 1999.

I. Introduction

On August 30, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend to recommended fine schedule for the submission of late financial and operational reports. The proposal was amended on October 5, 1999.³ Notice of the proposed rule change appeared in the **Federal Register** on October 25, 1999.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to change the fine schedule applicable for violations of Exchange Article XI, Rule 4, regarding the submission of late financial and operational reports. The failure to file required financial and operational reports in a timely manner subjects members to a sanction under

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Angelo Evangelo, Senior Attorney, Market Regulation, CHX, to John Roeser, Attorney, Division of Market Regulation, Commission, dated October 1, 1999 ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 42025 (October 18, 1999), 64 FR 25091.

⁴ 15 U.S.C. 78f(b)(4).

the Exchange's Minor Rule Violation Plan ("MRVP" or "Plan").⁵ Currently, the Minor Rule Violation Panel ("Panel") imposes late filing charges according to the following fine schedule.⁶

Days late	Amount
1-30	\$100
31-60	200
61-90	400

The Exchange is now proposing to subject the late filing violations to the standard recommended fine schedule applicable to most other violations governed by the Plan. The standard recommended fine schedule imposes a \$100 fine for the first violation within a rolling twelve month period and a \$500 fine and \$1000 fine for the second and third such violations.

Unlike the current fine schedule, the proposed fine schedule would not expressly increase fines based on the number of days a particular report was filed late. However, the Exchange expects the Panel to exercise its discretion to enhance sanctions proportionally for reports that are more or less significantly overdue.⁷

III. Discussion

1After 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 exchange.⁸ In particular, the Commission believes that the proposal is consistent with Sections 6(b)(6)⁹ and 6(b)(7)¹⁰ of the Act. The proposal is consistent with the requirements of Sections 6(b)(6) and 6(b)(7) in that it provides fair procedures and guidelines that enable

the Exchange to appropriately discipline its members and persons associated with members for violations of the rules of the exchange.

The Commission notes particularly that the fine schedule under the Plan is merely a recommended fine schedule, and that fines of more or less than the recommended fines, up to a maximum of \$2500, may be imposed in appropriate circumstances.¹¹ The Commission expects the Panel to exercise its discretion to deviate from the Plan's recommended fine schedule in determining fine amounts, as appropriate. Further, the Commission expects the Exchange to continue to resolve more serious violations of the rules through use of its formal disciplinary procedures, such as in the case of an egregious violation or a habitual offender.

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 Sections 6(b)(6) and 6(b)(7) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-CHX-99-12) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42184; File No. SR-NYSE-99-40]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Amending Exchange Rule 123B To Prohibit Specialists From Charging Commissions on SuperDot Orders

November 30, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,²

¹ See Approval Order, *supra* note 5.

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

notice is hereby given that on October 4, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change. The Exchange filed Amendment No. 1 on November 17, 1999³ and Amendment No. 2 on November 29, 1999.⁴ The proposed rule change, as amended, is described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change for a 90-day pilot to expire on February 26, 2000.

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

The Exchange proposes three amendments to Exchange Rule 123B. The first relates to commission-free execution of orders received by specialists through the SuperDOT System pursuant to Rule 123B(b)(1); the second sets forth the Exchange's policy under Rule 123B(b)(3) with respect to the timeframe in which specialists must issue an execution report for stopped orders; and the third clarifies the treatment of canceled and replaced orders. The text of the proposed rule change is available at the Exchange 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 In Amendment No. 1 the Exchange increased the timeframe for commission-free orders executed through the Exchange's SuperDOT System from two minutes to five minutes. See letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 16, 1999.

⁴ In Amendment No. 2, the Exchange requested that the Commission approve the proposal on a pilot basis for 90 days. See letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Richard Strasser, Assistant Director, Division, Commission, dated November 29, 1999.

⁵ On May 30, 1996 the Commission approved a proposed rule change that established the Exchange's MRVP. See Securities Exchange Act Release No. 37255 (May 30, 1996), 61 FR 28918 (June 6, 1996) ("Approval Order").

⁶ This fine schedule is also set forth under Exchange Article XI, Rule 4, Interpretation and Policy .02, which will be similarly amended to eliminate the fine schedule.

⁷ See Amendment No. 1, *supra* note 3.

⁸ 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).

⁹ Section 6(b)(6) requires the Commission to determine that the rules of the exchange provide that its members and persons associated with members shall be appropriately disciplined for violating the federal securities laws or the rules of the exchange by fine or other fitting sanction. 15 U.S.C. 78f(b)(6).

¹⁰ Section 6(b)(7) requires the Commission to determine that the rules of the exchange provide a fair procedure for disciplining its members and persons associated with members. 15 U.S.C. 78f(b)(7).