

system, and, in general, to protect investors and the public interest.

The Commission believes that the Derivative SuperMAX price improvement algorithm should provide investors a meaningful opportunity for price improvement when securities trading in  $\frac{1}{64}$ th increments have a spread of  $\frac{1}{16}$ th point or greater. The Commission believes that, because the opportunity for price improvement is automatic and without any specialist intervention, Derivative SuperMAX could facilitate order interaction and enhance customer orders consistent with section 6(b)(5) of the Act.<sup>10</sup> The Commission notes that while Derivative Super MAX is a voluntary program that specialists may choose to participate in for Dual Trading System issues,<sup>11</sup> providing a greater number of investors an opportunity to achieve price improvement is compatible with the views on best execution expressed in the Order Handling release.<sup>12</sup>

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the proposal in the **Federal Register** because in Amendment No. 1 to the proposal the Exchange has asserted that is able to activate the price improvement algorithm within one day of Commission approval. Further the, Commission believes that the proposal's price improvement algorithm should enhance the CHX's ability to compete with other market centers that trade the same securities that trade at the Exchange in minimum increments of  $\frac{1}{64}$ th, which in turn should benefit customers. Finally, the Commission notes that it expects the Exchange to submit proposed rule changes for all four MAX price improvement algorithms, pursuant to Section 19(b)(3)(A) of the Act,<sup>13</sup> to clarify the interpretation and operation of the pricing algorithms once securities are quoted and traded in decimals.

#### IV. CONCLUSION

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (File No. SR-CHX-24), as amended, be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42561; File No. SR-CHX-00-06]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Amending Its Membership Dues and Fees Schedule

March 22, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice hereby is given that on March 3, 2000, the Chicago Stock Exchange, Incorporated ("CHX" or "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 CHX. The CHX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CHX under Section 19(b)(3)(A)(ii) of the Act,<sup>2</sup> which renders the proposal effective upon filing with the Commission. 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 CHX proposes to amend its membership dues and fees schedule ("Schedule") in several ways. These changes increase the membership dues paid by all members; revise the fixed fees and credits for all securities; revise the application and assignment fee structure for all securities; and reflect charges relating to the processing of applications. The text of the proposed rule change is available upon request from the CHX or 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 regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV 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

The proposed rule change amends the Schedule in several ways. These changes are designed to allow the Exchange to continue its rapid growth while providing a strong market for its members and for investors.

First, the proposal increases the annual membership dues for all members by \$1,800 (from \$3,200 to \$5,000 per year). These dues are paid in equal monthly installments throughout the year. The proposal would increase the payments beginning April 1, 2000.<sup>3</sup>

Second, the proposal revises the specialist fixed fees and credits for all securities by increasing the specialist fixed fees and credits for Dual Trading System Securities and by imposing a specialist fixed fee and a credit for Nasdaq/NM Securities. The specialist fixed fee is paid by the specialist in a particular security; the amount of the fee is based either on the trading volume in that security (for Dual Trading System Securities) or on a market share calculation in that security (for Nasdaq/NM Securities).<sup>4</sup> Specialist credits are designed to reduce the total monthly fees paid by each specialist and to reduce the costs of trading on the

<sup>3</sup> Because the increase takes effect during the year, a member will not pay the full \$5,000 in 2000; instead, a member will pay approximately \$4,550 (three months at \$266.66/month plus nine months at \$416.66/month equals \$4,549.92).

<sup>4</sup> According to the proposed schedule, the fixed fee for Dual Trading System Securities would increase on April 1, 2000, and again on October 1, 2000; the new fixed fee for Nasdaq/NM Securities would begin on April 1, 2000. The Exchange has charged its members a fixed fee on Dual Trading System Securities for many years; this proposed revision to the Schedule represents the first time that the Exchange would charge a fixed fee on its nascent Nasdaq/NM Securities product line. These new Nasdaq/NM-related fixed fees allow the Exchange to defray, at least partially, the costs associated with the continued development and anticipated growth of this program. The Exchange believes it is appropriate, at least initially, to begin assessing this new Nasdaq/NM Securities fixed fee at a somewhat lower level than the fee that has been in place for Dual Trading System Securities for a number of years in order to allow members time to adjust their business models to this new requirement.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> Dual Trading issues are issues traded on the CHX, either through listing on the CHX or pursuant to unlisted trading privileges, and are also listed on either the New York Stock Exchange or the American Stock Exchange.

<sup>12</sup> See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

Exchange for members who make particular contributions to the Exchange's overall success.

The proposed also imposes a \$150 fee on each application submitted by a member organization to act as the specialist in a security and revises the fee paid per assignment by the member organization ultimately chosen to fulfill the specialist role. These revised fees are smallest for assignments made when only one firm is seeking to act as the specialist on a particular security, and then increase in two tiers, depending on how many firms seek a common assignment. This revised fee structure reflects, in part, the increased work involved both in processing multiple specialist applications for the same security and in bringing those issues before the Exchange's Committee on Specialist Assignment and Evaluation. This structure also reflects the Exchange's belief that an assignment sought by more than one specialist firm is a more valuable assignment than one that is not the subject of competition.<sup>5</sup> These modified fees take effect on April 1, 2000.

Finally, the proposal defines the amounts of the fees for the fingerprinting and background checks required as part of the membership and floor employee application process, and also states the amount of the fee for replacing a floor access badge.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(4)<sup>6</sup> in particular in that it is intended to provide for the equitable allocation of reasonable dues, fees and other charges among its members and

issuers and other persons using its facilities.

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

The CHX 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*

Written comments were neither solicited nor received with respect to the proposed rule change.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the CHX, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>8</sup> 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.<sup>9</sup>

### **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, N.W., Washington, D.C. 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, 450 Fifth Street, N.W., Washington, D.C. 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-00-06 and should be submitted by April 18, 2000.

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

**Maragret H. McFarland,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-42567; File No. SR-CHX-00-03]**

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Administration of the Exchange's Floor Membership Examination**

March 22, 2000.

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> notice hereby is given that on March 6, 2000,<sup>3</sup> the Chicago Stock Exchange, Incorporated ("CHX" or "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 CHX. 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 Interpretation and Policy .01(a) to CHX Rule 3 to eliminate the requirement that applicants for Exchange membership requesting a floor presence be posted for membership before taking the Exchange's Floor Membership Examination. The proposal would permit administration of the Floor Membership Examination in a manner more convenient for both the applicant and the Exchange's staff. The text of the

<sup>5</sup> Under the proposed arrangement, the Exchange will continue its practice of charging somewhat higher fees for the assignment of Nasdaq/NM Securities than for the assignment of Dual Trading System Securities. The Exchange believes this structure appropriately reflects the increasing amount of work related to the number of specialist applications the Exchange receives for the assignment of Nasdaq/NM Securities. The higher fee will also help to offset at least some of the development costs associated with the growing Nasdaq/NM Securities program by directly assessing the firms being assigned the opportunity to act as specialists in Nasdaq/NM Securities. More importantly, demand for Nasdaq/NM issues exceeds the supply available under the Exchange's current pilot program, which permits the Exchange to trade only 1,000 Nasdaq/NM Securities. The Exchange believes that the higher fee will, in part, moderate that demand. See Securities Exchange Act Release No. 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999), (S7-24-89), increasing the permissible number of Nasdaq/NM Securities eligible for trading on the CHX on an unlisted or listed basis from 500 to 1,000.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>10</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> The Exchange originally submitted the proposed rule change on February 28, 2000 pursuant to section 19(b)(2) of the Act. After consulting with Commission staff, the Exchange submitted Amendment No. 1 to refile the proposed rule change as a non-controversial filing pursuant to Rule 19b-4(f)(6) under the Act. Letter from Ellen J. Neely, Vice President and General Counsel, CHX, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 3, 2000 ("Amendment No. 1").