

4. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.1205(c).

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Department of the Army, U.S. Army Tank-Automotive and Armaments Command, Armament Research, Development and Engineering Center, Picatinny Arsenal, NJ 07806-5000, Attention: Richard W. Fliszar; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the decommissioning plan for building 611B is available for inspection at the NRC's Public Document Room, 2120 L Street N.W., Washington, DC 20555.

Dated at King of Prussia, Pennsylvania, this 21st day of March, 2000.

For the Nuclear Regulatory Commission.

Francis M. Costello,

Deputy Director, Division of Nuclear Materials Safety, RI.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42576; File No. SR-CSE-99-06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 by the Cincinnati Stock Exchange, Inc., To Extend Limit Order Protection to GTX Orders

March 24, 2000.

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 December 27, 1999, the Cincinnati Stock Exchange, Inc. ("CSE" 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 Exchange. On March 9, 2000, the Exchange filed an amendment to the proposal.³ On March

21, 2000, the Exchange filed two additional amendments to the proposal.⁴ The Exchange has filed this proposal pursuant to Section 19(b)(3)(A) of the Act⁵ and rule 19b-4(f)(6)⁶ thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposal 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 .02 to CSE Rule 11.9(u) to ensure execution of limit orders on the books of CSE Designated Dealers by extending the CSE's limit order protection interpretation to orders eligible for execution in a primary market's after-hours trading session. The text of the proposed rule change is available at the CSE 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 IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

Division of Market Regulation, SEC ("Amendment No. 1"). In Amendment No. 1, the Exchange provided the date on which the CSE's Executive Committee of the Board of Trustees approved the proposed rule change.

⁴ See March 7, 2000 letter from Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, to Alton Harvey, Chief, Office of Market Watch, Commission ("Amendment No. 2"). In Amendment No. 2, the CSE added a summary of the purpose of the proposed rule change in Section I of the proposal. See also March 20, 2000 letter from Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, to Alton Harvey, Chief, Office of Market Watch, Commission ("Amendment No. 3"). In Amendment No. 3, the CSE requested that the proposal be effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. The Exchange further requested that the Commission waive the requirement that the proposed rule change not become operative before 30 days from the date of filing pursuant to Rule 19b-4(f)(6)(iii), and that the Commission accept the Exchange's original filing as satisfying the requirement under Rule 19b-4(f)(6)(iii) that the Exchange provide the Commission with five business days notice of its intent to file the proposed rule change. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b-4(f)(6)(iii).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CSE proposal is designed to ensure execution of limit orders on the books of CSE Designated Dealers by extending the CSE's limit order protection interpretation to orders eligible for execution in a primary market's after-hours trading session.⁷ The Exchange believes that its proposal presents no novel issues and is substantially similar to those primary market print protection rules previously approved by the Commission.⁸

Under the proposal, during the extended period, Designated Dealers will hold within their systems GTX orders in any security traded on the Exchange pursuant to unlisted trading privileges ("UTP") and deliver the orders to the CSE after 5 p.m.⁹ These orders will be executed by the CSE on a first-in, first-out ("FIFO") basis after 5 p.m.

The CSE does not propose to establish a separate after-hours trading session to compete with NYSE's Crossing Session I. Instead, it proposes to amend the limit order protection requirements to require

⁷ The NYSE's Crossing Session I, which permits the execution of single-stock, single-sided closing-price orders and crosses of single-stock closing-price buy and sell orders, was approved by the Commission on May 20, 1991, and began operation on June 13, 1991. See Securities Exchange Act Release No. 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR-NYSE-90-52 and SR-NYSE-90-53). The American Stock Exchange, LLC's ("Amex") After-Hours Trading ("AHT") facility was approved by the Commission on August 2, 1991. See Securities Exchange Act Release No. 29515 (August 2, 1991), 56 FR 37736 (August 8, 1991) (SR-Amex-91-15).

⁸ Procedures established by the other regional exchanges in 1991 require their specialists to provide primary market protection to limit orders based on the volume that prints in the primary market's after-hours session. See Securities Exchange Act Release Nos. 29301 (June 13, 1991), 56 FR 28182 (June 19, 1991) (SR-BSE-91-4) ("Boston Stock Exchange Approval Order"); 29297 (June 13, 1991), 56 FR 28191 (June 19, 1991) (SR-MSE-91-11) ("MSE Approval Order"); 29300 (June 13, 1991), 56 FR 28212 (June 19, 1991) (SR-Phlx-91-26) ("Philadelphia Stock Exchange Approval Order"); 29749 (September 27, 1991), 56 FR 50405 (October 4, 1991) (SR-Phlx-91-32) ("Philadelphia Stock Exchange Amendment"); 29305 (June 13, 1991), 56 FR 28208 (June 19, 1991) (SR-PSE-91-21) ("Pacific Stock Exchange Approval Order"); and 29543 (August 9, 1991), 56 FR 40929 (August 16, 1991) (SR-PSE-91-28) ("Pacific Stock Exchange Amendment"). While CSE Interpretation and Policy .02 to Rule 11.9(u) requires similar primary market print protection during regular trading hours, the Chapter 11 rules are applicable currently only to the regular trading session.

⁹ All references to time are Eastern Time unless noted otherwise. Presently, the primary markets for CSE securities traded according to UTP, the NYSE and the Amex, end their regular trading sessions and report closing prices shortly after 4 p.m.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See March 2, 2000 letter from Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, to Constance Kiggins, Special Counsel,

its Designated Dealers to fill certain limit orders (orders which satisfy certain stated criteria) after the close of the regular CSE auction market trading session based upon CSE Rule 11.1(b) which permits CSE to execute orders during the hours which a security is traded on a principal exchange.¹⁰

Under the proposal, CSE Designated Dealers will scan their limit order books at 4 p.m. for limit orders that are priced at the primary market's closing price and have been designated as "GTX" ("good 'til cancelled, executable in the after-hours session").¹¹ The CSE proposal would give customers the option of deciding whether they want their limit orders to be designated as GTX orders and thus eligible for execution after the close of the regular primary market.¹² If a limit order meets these criteria, then it would become eligible for a fill at the primary market closing price based on volume that prints in the primary market's after-hours session. The only two situations under which a CSE Designated Dealer would not be obligated to fill customer limit orders, designated as GTX, based on volume that prints in the primary market's after-hours session are: (1) If it can be demonstrated that the order would not have been executed if it had been transmitted to the primary market; and (2) if a customer cancels a GTX order.¹³ GTX orders will retain the priority among themselves that exists on the Designated Dealers' books and would be entitled to an execution based on that priority. If a limit order that is eligible for limit order protection in an after-hours session does not get executed, it will remain on the limit

¹⁰ Currently, pursuant to CSE Rule 11.1(b), the hours of trading for any security traded on the Exchange which is also traded on another national securities exchange ("dually traded") or exchanges ("multiply traded") shall be, in addition to the hours of trading set forth in paragraph (a) of this rule 9:30 a.m. to 4:05 p.m., the hours during which the security is traded on the principal exchange (emphasis added). Therefore, trades may be executed immediately after the primary exchange's after-hours session.

¹¹ Members will designate limit orders that are eligible for limit order protection based on the volume that prints in a primary market's after-hours trading session as "GTX" orders. Any customer Good 'til Cancelled ("GTC") limit orders on the book of the member during the regular trading session of 9:30 a.m. to 4:05 p.m. will remain there and will not be eligible for limit order protection based on the volume that prints in the primary market's after-hours session.

¹² CSE will use its existing systems to implement the proposed rule change and execute GTX orders. The CSE has no systems capacity concerns regarding the execution of GTX orders.

¹³ Under the CSE proposal, a customer can cancel a GTX order during the regular 8:30 a.m. to 3:05 p.m. (Central Time) session and at any time up until the execution based on the NYSE Crossing Session I print.

order books of the CSE Designated Dealer and would retain its priority during the next day's regular trading session.

Designated Dealers will deliver to the CSE for execution GTX orders once the appropriate volume in a particular security in the primary market's crossing session has been determined. The Exchange proposes to implement trade reporting for GTX orders by reporting each execution immediately after the primary market's after-hours session. As executions occur between 5:00 p.m. and 5:05 p.m., they will be reported to the consolidated tape as "Out-of-Sequence" (or "Sold" sale) transactions. Because other exchanges may be operating during this time, printing the GTX after-hours crossing session trades in this manner will ensure that the transaction reports do not update the consolidated last sale.

Clearance and Settlement

Clearance and settlement of trades that result from after-hours limit order protection will occur in the same manner and at the same time as regular way trading session transactions. Once the CSE Control Room Staff have completed their end-of-day procedures at approximately 5:15 p.m., they inform the Operations area to bring down the National Securities Trading System ("NSTS").¹⁴ Operations will initiate the process of bringing down the system, which includes clearing out the book and running roll files to update the Dealer of the Day obligations. Approximately one hour after the initiation of bringing down the system, the clearing files are delivered to National Securities Clearing Corporation.

Trading Halts in Eligible Securities

Executions of GTX orders will not be available for any issue that remained halted as of the close of the traditional trading session on the primary market. In addition, executions will be prohibited if a market-wide "circuit breaker" trading half remained in effect at the close of the primary market traditional trading session.

¹⁴ NSTS is the CSE's electronic communication and execution facility through which bids and offers of competing dealers, as well as public orders, are consolidated for review and execution by system users. NSTS is the platform supporting the CSE's regular trading session and will be the platform supporting the proposed limit order protection of GTX orders. Use of NSTS in this manner will not adversely impact the capacity or operation of NSTS during the regular trading session.

Surveillance and Oversight

The Exchange will conduct surveillance and oversee all GTX orders in the same manner and using the same techniques as used during the traditional trading session. These systems should reduce the possibility for intentional or inadvertent mishandling of orders and should detect any trading abuses.

Exemptive Relief

The Exchange requested, and was granted, an exemption from Rule 10a-1 under the Act, the Commission's short sale rule.¹⁵

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act¹⁶ in general, and furthers the objectives of Section 6(b)(5)¹⁷ in particular. The Exchange believes the proposed rule is consistent with Section 6(b)(5) in that it is designed to promote just and equitable principles of trade and 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 inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received in connection with the proposed rule change.

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

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

¹⁵ The Commission has granted the Exchange an exemption from Rule 10a-1 under the Act for limit orders for NYSE listed securities that are priced at the NYSE's closing price and have been designated for execution based on the volume that prints in NYSE's Crossing Session I. See March 23, 2000 letter to Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, from James A. Brigagliano, Assistant Director, Division of Market Regulation, Commission. The Exchange must seek further exemptive relief should it expand the scope of limit order protection to include orders for securities that are priced at the close and designated for execution based on volume that prints on additional primary markets.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(6)¹⁹ thereunder. 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.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become immediately operative upon filing, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will provide investors immediately with a choice of having GTX orders filled at a primary market or at the CSE. For these reasons, the Commission finds good cause to designate that the proposal become operative immediately.²⁰

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 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 Exchange. All submissions should refer to file number SR-CSE-99-06 and should be submitted by April 21, 2000.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.²¹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-7976 Filed 3-30; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42572; File No. SR-NYSE-00-09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Exchange Rule 123B

March 23, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 28, 2000, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") file with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change. The proposed rule change is described in Items I, II, and III 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.

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

The proposed rule change involves two amendments to Exchange Rule 123B. The first amendment relates to commission-free execution or orders received by specialists through the SuperDOT System, and the second amendment clarifies the status of an order that is canceled and replaced.³

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission approved these two amendments to Exchange Rule 123B on a pilot basis on November 30, 1999. See Exchange Act Release No. 42184 (November 30, 1999), 64 FR 68710 (December 8, 1999), File No. SR-NYSE-99-40. In SR-NYSE-99-40, a third amendment to Exchange Rule 123B relating to execution reports of stopped orders was also proposed and approved by the Commission. However, the Exchange did implement this third amendment upon the Commission's approval, and is not seeking to implement this third amendment at this time. See letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated February 25, 2000. Additionally, in File No. SR-NYSE-00-13, filed with the Commission on March 21, 2000, the Exchange has requested an extension of this pilot program for an additional 60 days or until April 26, 2000, and has requested permanent approval of this pilot program on an accelerated basis.

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 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

On October 4, 1999, the Exchange filed a proposed rule change with the Commission consisting of three amendments to Exchange Rule 123B. On November 30, 1999, the Commission approved the proposed rule change as a pilot through February 26, 2000.⁴

One of the amendments to Rule 123B provided for the commission-free execution of all orders received by Exchange specialists through the SuperDOT system if such orders were executed within five minutes. Under former Exchange Rule 123B(b)(1), specialists were not permitted to charge floor brokerage (*i.e.*, a commission imposed on exchange floor brokers) for executing market and marketable limit orders⁵ received by means of the Exchange's automated order routing system known as SuperDOT. The Exchange proposed to amend Rule 123B and add .10 in the Supplementary Material to the Rule to extend the no commission policy to all orders received by specialists via SuperDOT that are executed within five minutes of receipt. This proposal extended the commission-free execution to include limit orders that are not marketable at the time of receipt by the specialist but that are executed within the five-minute timeframe. The proposed rule change

⁴ See Exchange Act Release No. 42184 (November 30, 1999), 64 FR 68710 (December 8, 1999). The third proposed change to Rule 123B related to reports of executions within two minutes for orders stopped by specialists. The Exchange is not implementing this third proposed change to Rule 123B at this time. See Footnote 3, *infra*. Therefore, the Commission is not seeking comment on this third amendment.

⁵ A marketable limit order is defined as an order with a limit price which is at or better than the prevailing quotation at the time the order is received by the specialist. See Exchange Rule 123B(b)(1).