

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>36</sup>

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Deputy Secretary.

[FR Doc. 00-17595 Filed 7-11-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43010; File No. SR-CHX-00-08]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Chicago Stock Exchange, Inc., To Establish a Board Review Process for Decisions of the Exchange's Committee on Specialist Assignment and Evaluation Regarding Specialist Firm Consolidations

July 5, 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 is hereby given that on March 17, 2000, 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, II, and III below, which Items have been prepared by the Exchange. On April 3, 2000, the Exchange amended the proposal.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to amend CHX Article XXX, Rule 1, Interpretation .01 to establish a board review process for certain decisions of the Exchange's Committee on Specialist Assignment and Evaluation ("Committee"). The text of the proposed rule change is below. Proposed additions are in italics. Proposed deletions are in brackets.

#### ARTICLE XXX

##### Specialists

##### Registration and Appointment

RULE 1. No change to text.

\* \* \* Interpretations and Policies

.01 Committee on Specialist Assignment & Evaluation

#### ASSIGNMENT FUNCTION

##### I. Events Leading to Assignment Proceedings

Pursuant to Article XXX, Rules 1 and 8, the Committee may, when circumstances require, assign or reassign a security. *Eight* [Seven] circumstances may lead to the need for assignment of a security. They are:

1. New listing or obtaining unlisted trading privilege;
2. Specialist request;
3. Corporation request;
4. Split-up and/or merger of specialist units;
5. Fundamental change of specialist unit;
6. *Consolidations creating Concentration*;
- [6.]7. Unsatisfactory performance action; or
- [7.]8. Disciplinary action.

The following guidelines have been adopted by the Exchange [Committee] for [its] use in the assignment or reassignment of stocks among co-specialists. These guidelines set forth the general policy [of the Committee] concerning the posting and allocation of stocks. They are not, however, rigid rules to be strictly followed regardless of unique circumstances. These guidelines form only the starting point of [the Committee's] deliberations; they will be applied in light of the facts in each individual case. *An assignment may be made subject to such conditions as are appropriate. If any such condition is not met, the stock shall be immediately posted for reassignment.*

- 1.-5. No change to text.
6. *Consolidations creating Concentration.*  
(a) *Whenever a specialist unit acquires, merges, creates a joint trading account or other profit-sharing arrangement with one or more other specialist units or otherwise comes under common control with one or more other specialist units (a "Consolidation") the assignments of the affected stocks shall be subject to Committee review and approval.*

(b) *When a Consolidation creates or increases a specialist unit's financial interest in trades constituting 10% or more of the total Exchange trade volume in the three preceding calendar months ("Concentration"), the Committee will consider:*

- (i) *the effect of the consolidation on the specialist units'*
  - A. *Capital supporting specialist activities;*
  - B. *Experience and quality of management;*
  - C. *Experience and performance of co-specialists;*
  - D. *Risk controls and procedures;*
  - E. *Operational efficiencies; and*
- (ii) *the effect of the consolidation on the Exchange's ability to:*
  - A. *Enhance its competitive position;*
  - B. *Minimize risk to the financial integrity of the marketplace; and*
  - C. *Continue operating in the public interest.*

- [6]7. No change to text.
- [7]8. No change to text.

##### II. Assignment Procedures

\* \* \* \* \*

4. *Board Review. The full Board of Governors, excluding those Governors that*

*are co-specialists or affiliates of co-specialists (a "Board Panel"), may on its own initiative review any decision of the Committee involving a change in control or consolidation of a specialist unit. The Board Panel shall give any interested member an opportunity to present its views on the matter. A Committee decision will be final if any member of a Board Panel, within ten days of a Committee decision, does not request that the Board Panel initiate a review. Notwithstanding the foregoing, a Board Panel will review all decisions made with respect to Consolidations creating Concentration. The decision of the Board Panel is final.*

[4]5. No change to text.

\* \* \* \* \*

#### 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

The Exchange proposes to amend its rules to establish a board review process for certain Committee decisions. Specifically, the Exchange proposes an amendment to CHX Article XXX, Rule 1, Interpretation .01.

The Committee currently is charged with approving the assignment of stocks to specialist firms and their co-specialists, as well as evaluating the performance of such specialists and co-specialists. The Committee also reviews and must approve the transfers of assigned issues that typically occur in connection with the acquisitions of specialist firms by other specialist firms.

The Exchange is experiencing significant consolidation of its specialist firms. The Exchange's Board of Governors ("Board") believes that specialist firm consolidations, and the concentration of business that can result from these consolidations, can raise issues that are significant in the context of the Exchange's long-term business plan and operational forecasts. These issues are beyond those typically addressed by the Committee in the ordinary stock allocation process. The Board thus has determined that it is

<sup>36</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> See March 31, 2000 letter from Ellen J. Neely, Vice President and General Counsel, CHX, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC ("Amendment No. 1"). In Amendment No. 1, the Exchange made minor, technical changes to the proposal.

both appropriate and necessary for the Board to review Committee decisions that raise the broader issues referenced above. Accordingly, the Board has approved a procedure for discretionary, and in certain cases mandatory, Board review and approval of stock assignment transfers in the case of specialist firm consolidations, and for discretionary authority to review and approve transfers of assigned stocks in circumstances where there is a change in control of a specialist firm.

Under the proposal, the Committee will continue to review transfers of assigned stocks in connection with specialist firm consolidations or changes in control of specialist firms, subject to the following new review procedures. A Board panel, composed of all Board members that are not affiliated with specialist firms may review (on a discretionary basis) any Committee decision regarding the transfer of assigned stocks in connection with consolidation<sup>4</sup> of specialist firms or a change in control of a specialist firm, if a member of the Board panel requests discretionary review within 10 days of a Committee decision. If no discretionary review is requested within this period, the Committee decision with respect to the proposed transfer or assigned stocks will become final. If the specialist firm consolidation will create or increase concentration<sup>5</sup> in specialist firms, however, review by the Board panel will be mandatory and no panelist need request the review.

The Exchange believes that the proposed procedures will enable the Exchange to better monitor and regulate the long-term business and operational effects of business combinations among specialist firms.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and with the requirements of Section 6(b).<sup>6</sup> In particular, the Exchange believes the proposed rule is consistent with Section 6(b)(5) of the Act<sup>7</sup> 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.

## 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 written comments were either solicited or received.

## 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 CHX 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.

## 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 CHX. All submissions should refer to File No. SR-CHX-00-08 and should be submitted by August 2, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-17596 Filed 7-11-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43003; File No. SR-NASD-00-40]

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Mandatory Decimal Pricing Testing

June 30, 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 is hereby given that on June 27, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated the proposed rule change as one concerned solely with the administration of the self-regulatory organization under Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

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

NASD Regulation is proposing to add a new rule, Rule 3420, to the Conduct Rules of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to require clearing firms and market makers that are members to conduct or participate in the testing of their computer systems to ascertain decimal pricing conversion compatibility of those systems. The text of the proposed rule change is available at the NASD and at the Commission.

<sup>8</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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> "Consolidation" of two or more specialist firms includes acquisitions, mergers, creation of joint trading accounts and other profit sharing arrangements, as well as the combining of specialist firms under common control.

<sup>5</sup> "Concentration" means a financial interest in trades constituting 10% or more of total Exchange trade volume.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).