

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 Amex. All submissions should refer to file number SR-Amex-2003-71 and should be submitted by September 18, 2003.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

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BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48388; File No. SR-CSE-2003-09]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Cincinnati Stock Exchange, Inc. Relating to Market Order Exposure Requirements

August 21, 2003.

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 August 7, 2003, 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 CSE. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder, as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, 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 CSE is proposing to amend CSE Rule 11.9(u), Interpretation .01, concerning market order exposure requirements ("Market Order Exposure Requirement"). The proposed rule change would modify the rule language in light of the current \$0.01 minimum price variation and codify certain of the Exchange's stated policies and interpretations contained in CSE Regulatory Circulars.<sup>5</sup>

The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].<sup>6</sup>

\* \* \* \* \*

Rule 11.9(u), Interpretations and Policies

\* \* \* \* \*

#### .01 Market Order Exposure Requirement

(a) Consistent with his or her agency responsibility to exercise due diligence, a member must comply with the following procedures which provide the opportunity for public agency buy/sell market orders in securities other than Nasdaq/NM securities to receive a price lower/higher than the disseminated national best offer/bid.

Except under unusual market conditions or if it is not in the best interests of the customer, [when the spread between the national best bid and offer is greater than the minimum price variation a member must either immediately execute the market order at an improved price or expose the market order on the Exchange for a minimum of fifteen seconds in an attempt to improve the price.] *Preferencing Dealers must immediately price improve or expose for a minimum of five seconds in an attempt to improve the price:*

*1. market orders with sizes less than or equal to 1000 shares when the NBBO at time of order receipt is more than 5 cents (\$0.05) wide;*

*2. market orders with sizes between 1001 shares and 5000 shares when the*

<sup>5</sup> See Regulatory Circulars 01-07, 99-03, 98-06, 97-07 and 96-04.

<sup>6</sup> At the request of the Exchange, the Commission has revised the proposed rule change to insert the word "wide" at the end of clauses (a)1, (a)2 and (a)3. Telephone conversation between John Polise, Senior Special Counsel, Joseph P. Morra, Special Counsel and Ann E. Leddy, Attorney, Division of Market Regulation, Commission, and Jeffrey T. Brown, Senior Vice President, Regulation and General Counsel, Exchange (August 20, 2003).

*NBBO at time of order receipt is more than 10 cents (\$0.10) wide; and*

*3. market orders with sizes above 5000 shares when the NBBO at time of order receipt is more than 15 cents (\$0.15) wide.*

(b) *to assist Preferencing Dealers in satisfying their obligations under the rule, the following exceptions apply:*

#### 1. Unusual Market Conditions

*Unusual market conditions include the following conditions:*

- i. The NBBO is more than 1 dollar (\$1.00) wide at receipt;*
- ii. the market is locked or crossed at receipt or becomes that way during exposure;*
- iii. when circuit breakers have been activated;*
- iv. during and immediately after the opening (a period not to exceed 5 minutes);*
- v. immediately prior to the close (a period not to exceed 5 minutes);*
- vi. when the Exchange has declared a fast market; and*
- vii. when non-firm markets exist.*

#### 2. Best Interests of the Customer

*In order to protect the best interests of the customer, the following orders may require unique handling subject to the application of a member's brokerage judgment and experience as required by CSE Rule 12.10, Best Execution:*

- i. block size market orders as defined in the Intermarket Trading System Plan;*
- ii. odd-lot orders;*
- iii. contingent orders;*
- iv. a market order for a quantity that exceeds the existing NBBO size;*
- v. NBBO moves in direction of market order stop price; and*
- vi. Primary market trades at market order stop price.*

\* \* \* \* \*

#### 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 CSE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CSE 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

The purpose of the proposed rule change is to amend CSE Rule 11.9(u),

<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> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

Interpretation .01, to modify the rule language in light of the current \$0.01 minimum price variation in quoted spreads.<sup>7</sup> In addition, the proposed rule change would codify certain of the Exchange's stated policies and interpretations contained in CSE Regulatory Circulars.<sup>8</sup> Rule 11.9(u), Interpretation .01, which applies only to ITS eligible securities, requires Preferencing Designated Dealers ("PDDs") in greater than minimum price variation spreads between the national best bid and offer ("NBBO") to, except under unusual market conditions or if it is not in the best interest of the customer, either immediately execute a market order at an improved price or expose it on the Exchange for a minimum of fifteen seconds.<sup>9</sup>

The Market Order Exposure Requirement was adopted when the industry minimum price variation was one-eighth of a dollar (\$0.125) resulting in the CSE's market order exposure rule applying when bid/ask spreads were one-fourth of a dollar (\$0.25).<sup>10</sup> Given the advent of decimal pricing and today's narrow spreads, the CSE proposes to update its rule. The CSE seeks to reduce the exposure period from 15 seconds to 5 seconds and to impose the Market Order Exposure Requirement based on the size of the market order received by the CSE PDDs. Specifically, the CSE proposes a three-tiered application of the rule to require PDDs to: (1) Expose for 5 seconds or execute immediately at an improved price market orders of 1000 shares or less received when the NBBO is more than 5 cents (\$0.05) wide; (2) expose for 5 seconds or execute immediately at an improved price market orders with share size between 1001 and 5000 shares received when the NBBO is more than 10 cents (\$0.10) wide; and (3) expose for 5 seconds or execute immediately at an improved price market orders with size greater than

5001 shares when the NBBO is more than 15 cents (\$0.15) wide.<sup>11</sup>

As noted above, the CSE's Market Order Exposure Requirement anticipates that certain market conditions preclude application of the rule. The rule carves out these market conditions by providing that: "[e]xcept under unusual market conditions or if it is not in the best interests of the customer \* \* \*"<sup>12</sup> Over the years, the CSE has disseminated Regulatory Circulars describing the Exchange's interpretations of "unusual market conditions" or when "it is not in the best interests of the customer" to expose a market order.<sup>13</sup> The CSE proposes now to incorporate these interpretations into the language of the rule. Therefore, to assist PDDs in satisfying their obligations under the rule, the following exceptions apply:

#### *Unusual Market Conditions*

Unusual market conditions include the following conditions:

1. The NBBO is more than 1 dollar (\$1.00) wide at receipt;
2. the market is locked or crossed at receipt or becomes that way during exposure;
3. when circuit breakers have been activated;
4. during and immediately after the opening (a period not to exceed 5 minutes);
5. immediately prior to the close (a period not to exceed 5 minutes);
6. when the exchange has declared a fast market; and
7. when non-firm markets exist.

#### *Best Interests of the Customer*

In order to protect the best interests of the customer, the following orders may require unique handling subject to the application of a member's brokerage judgment and experience as set forth by CSE Rule 12.10, Best Execution:<sup>14</sup>

1. block size market orders as defined in the Intermarket Trading System Plan;
2. odd-lot orders;
3. contingent orders;
4. a market order for a quantity that exceeds the existing NBBO size;
5. NBBO moves in direction of market order stop price; and
6. primary market trades at market order stop price.

#### *1. Statutory Basis*

The Exchange believes that the proposed rule change is consistent with

the provisions of Section 6(b) of the Act,<sup>15</sup> in general, and with Section 6(b)(5) of the Act,<sup>16</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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, generally, in that it protects investors and the public interest.

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

The CSE does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

#### *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.

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

The foregoing proposal has become effective pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>17</sup> and Rule 19b-4(f)(1)<sup>18</sup> thereunder, in that it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. 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 proposal 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

<sup>7</sup> While over time the minimum trading increment has decreased from one-eighth to subpenny increments, under the current interpretation the requirements of Rule 11.9(u) Interpretation .01 remain applicable only when the price variation in the spread between the best national bid and offer is greater than or equal to one-fourth of a dollar (\$0.25). See CSE Regulatory Circular 97-07; see also Securities Exchange Act Release Nos. 39720 (March 4, 1998), 63 FR 11942 (March 11, 1998)(SR-CSE-97-13); 43471 (October 20, 2000), 65 FR 64463 (October 27, 2000) (SR-CSE-00-08); and 43653 (December 1, 2000), 65 FR 77055 (December 8, 2000) (SR-CSE-00-08) (each of which references CSE Regulatory Circular 97-07 for further discussion of CSE's Market Order Exposure Requirement).

<sup>8</sup> See *supra*, note 5.

<sup>9</sup> This provision applies only to public agency buy/sell market orders in securities other than Nasdaq national market securities.

<sup>10</sup> See *supra*, note 7.

<sup>11</sup> In a separate rule filing, SR-CSE-2003-10, CSE is proposing to eliminate the Market Order Exposure Requirement completely.

<sup>12</sup> CSE Rule 11.9(u), Interpretations and Policies .01.

<sup>13</sup> See *supra*, note 5.

<sup>14</sup> CSE Rule 12.10, Best Execution.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>18</sup> 17 CFR 240.19b-4(f)(1).

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-2003-09 and should be submitted by September 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-22031 Filed 8-27-03; 8:45 am]

**BILLING CODE 8010-01-P**

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3537]

#### State of Mississippi

Lee County and the contiguous counties Chickasaw, Itawamba, Monroe, Pontotoc, Prentiss and Union in the State of Mississippi constitute a disaster area due to damages caused by severe storms and flooding that occurred on August 6, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 20, 2003 and for economic injury until the close of business on May 20, 2004 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

|   | Percent |
|---|---------|
| <b>For Physical Damage:</b>   |         |
| Homeowners with Credit Available Elsewhere .....                                      | 5.125   |
| Homeowners without Credit Available Elsewhere .....                                   | 2.562   |
| Businesses with Credit Available Elsewhere .....                                      | 6.199   |
| Businesses and Non-Profit Organizations without Credit Available Elsewhere .....      | 3.100   |
| Others (Including Non-Profit Organizations) with Credit Available Elsewhere .....     | 5.500   |
| <b>For Economic Injury:</b>   |         |
| Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere ... | 3.100   |

The number assigned to this disaster for physical damage is 353711 and the number for economic injury is 9W7200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 20, 2003.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 03-22013 Filed 8-27-03; 8:45 am]

**BILLING CODE 8025-01-P**

## SOCIAL SECURITY ADMINISTRATION

### Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). This notice transfers the agency Press Office from the Office of the Commissioner to the Office of the Deputy Commissioner, Communications. The new material and changes are as follows:

Section SA.10 *The Office of the Commissioner*—(Organization):

Delete

F. The Press Office (SAT)

Section SA.20 *The Office of the Commissioner*—(Functions):

Delete in entirety

F. The Press Office (SAT)

Section TE.00 *The Office of Communications*—(Mission):

Add second line

Performs SSA Press Office function to ensure a unified and consistent message to the public.

Section TE.10 *The Office of the Communications*—(Organization):

C. The Immediate Office of the Deputy Commissioner, Communications (TEA)

Add

which includes: 1. The Press Office (TEA-1)

Section TE.20 *The Office of the Communications*—(Functions):

C. The Immediate Office of the Deputy Commissioner, Communications (TEA), provides the Deputy Commissioner and Assistant Deputy Commissioner with staff assistance on the full range of their responsibilities.

Add

It includes 1. The Press Office (TEA-1)

(a) Guides and coordinates all SSA press activities. It prepares and distributes news releases, fact sheets, and other materials for national distribution and for local release through SSA field offices.

(b) Initiates and maintains contacts

with members of the news media and responds to press inquiries and requests from newspapers, radio and television news departments; news and general print magazines, internet news providers, and other specialized press. Advises Agency executives, Regional Communications Directors, Public Affairs Specialists, and other employees on matters related to news media.

(c) Monitors press coverage of Social Security programs and employees, and distributes summaries of media coverage to Agency executives. When appropriate, the Press Office works to correct inaccuracies in coverage.

Dated: August 14, 2003.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

[FR Doc. 03-22015 Filed 8-27-03; 8:45 am]

**BILLING CODE 4191-02-P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Trade Policy Staff Committee; Notice of Availability and Request for Public Comment on Interim Environmental Review of United States-Central America Free Trade Agreement

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of availability and request for public comment.

**SUMMARY:** The Office of the U.S. Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), seeks comment on the interim environmental review of the proposed U.S.-Central America Free Trade Agreement (CAFTA). The interim environmental review is available at <http://www.ustr.gov/environment/environmental.shtml>. Copies of the review will also be sent to interested members of the public by mail upon request.

**DATES:** Comments on the draft environmental review are requested no later than October 15, 2003, and earlier if possible. Comments received before September 15, 2003, will be used to inform the seventh round of negotiations, currently scheduled for September 15-19. Comments received after September 15, 2003, will be used to inform subsequent rounds of negotiations. After the seventh round, two more rounds of negotiations are scheduled, with the concluding round in December 2003.

<sup>19</sup> 17 CFR 200.30-3(a)(12).