

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's rules require clearing members to submit to comparison different types of information for each transaction that they clear. These requirements are set forth in Exchange Rule 719. Among the different data that clearing firms must submit for each trade is an account type code. These codes identify the type of account for which the trade was effected (e.g., a customer, market maker or specialist). The Exchange uses these codes for purposes of market oversight and transaction fee billing.

The Exchange is proposing three modifications to the account type codes. Going forward, the number "3" would be used to identify transactions that resulted from telephone access to the Amex specialist effected for a Nasdaq market maker that is affiliated with the clearing member. The number "4" would be used to identify transactions that resulted from telephone access to the specialist effected for a Nasdaq market maker that is an Amex member but is not affiliated with the member clearing the trade. Finally, the number "5" would be used to identify transactions that resulted from telephone access to the specialist effected for a Nasdaq market maker that is not an Amex member and is not affiliated with the clearing member. The Exchange is making these changes to identify the trades that result from telephone access to the specialist so that these trades will not be charged a transaction fee.³ No other change would be made to Rule 719.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with

section 6(b) of the Act⁴ in general and furthers the objectives of section 6(b)(5),⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The proposed rule change will impose no 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 solicited or received with respect to the proposed rule change.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁶ and paragraph (f)(1) and (3) of Rule 19b-4⁷ thereunder because it constitutes a states policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule and is concerned solely with the administration of the self-regulatory organization. At any time within 60 days of the filing of such 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 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 No. SR-Amex-2002-77 and should be submitted by October 30, 2002.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46592; File No. SR-CHX-2002-28]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Chicago Stock Exchange, Incorporated To Amend the CHX Membership Dues and Fees Schedule to Reduce Tape A and Tape B Specialist Credits, Reduce Floor Broker Earned Credits, and Increase the OTC Specialist Fixed Fees

October 2, 2002.

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 September 3, 2002, 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 Exchange. On September 30, 2002, the CHX amended the proposal.³ The Exchange has

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See September 27, 2002 letter from Ellen J. Neely, Senior Vice President and General Counsel, CHX, to Nancy J. Sanow, Division of Market Regulation, Commission ("Amendment No. 1") Amendment No. 1 completely replaces and supersedes the original filing. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on September 30, 2002, the date the CHX filed Amendment No. 1.

³ The Exchange states that Section IX of the Nasdaq Unlisted Trading Privileges Plan ("Plan") provides in part that no Plan Participant can impose any fee or charge with respect to transactions in Nasdaq securities effected with Nasdaq market makers which are communicated to the floor by telephone pursuant to the Plan. See Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(1) and (3).

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,⁴ which renders the proposal effective upon filing with the Commission. 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 its membership dues and fees schedule (“Schedule”) for the period from September through December 2002, to (1) reduce the Tape A and Tape B specialist credits; (2) reduce the floor broker earned credits; and (3) increase the OTC specialist fixed fees. The text of the proposed rule change is below.

Proposed new language is in italics; proposed deletions are in brackets.

Membership Dues and Fees

* * * * *
E. Specialist Fixed Fees

Except in the case of Exemption Eligible Securities (as defined above in Section D), which shall be exempt from assessment of fixed fees, specialists will be assigned a fixed fee per assigned stock on a monthly basis, to be calculated as follows:

Fixed Fee Per Dual Trading System Security = No change to text
Fixed Fee For *Specialist* [Member] Firms Trading = The lowest monthly fixed fee charged each member firm for Nasdaq/NMS Securities period from January through June 2002, less the market data rebate earned by the firm in June, 2002. (Effective July 2002)
For each month from September 2002 through December 2002, each specialist firm shall be charged a Fixed Fee Charge equal to that specialist firm’s pro rata share of an additional \$10,000 monthly fee. A specialist firm’s pro rata share shall be based on the firm’s percentage participation in the total market data rebates paid to specialist firms trading Nasdaq/NMS Securities in June 2002.

* * * * *

M. Credits

1. Specialist Credits

Total monthly fees owed by a specialist to the Exchange will be reduced (and specialists will be paid each month for any unused credits by the application of the following credits):
a. Effective July 1, 2002 for transactions in Tape A Securities:

CHX monthly CTA trade volume by stock (percent)	Transaction credit (percent)
< 7	18
7–12	45
>12	70

“Tape A Securities” are securities reported on Tape A of the Consolidated Tape Association.
“Transaction Credit” when used in connection with Tape A Securities means the applicable percentage of monthly CHX tape revenue from the Consolidated Tape Association generated by a particular stock. To the extent that CHX tape revenue is subject to a year end adjustment, specialist credits may be adjusted accordingly.
For each month from September 2002 through December 2002, the Transaction Credit calculated above for each specialist firm shall be decreased by an amount equal to that specialist

firm’s “Credit Reduction Charge,” which shall be calculated as follows:
(Total CHX Monthly Tape A Transaction Credits ÷ Total CHX Monthly Tape A & B Transaction Credits) × \$40,000 = Tape A Pro Rata Share
(Specialist’s Monthly Tape A Transaction Credits ÷ Total CHX Monthly Tape A Transaction Credits) × Tape A Pro Rata Share = Specialist’s Credit Reduction Charge
b. Effective July 1, 2002 for transactions in Tape B Securities:

CHX monthly CTA trade volume by stock (percent)	Transaction credit (percent)
≤5.75%	18
>5.75%	50%

“Transaction Credit” when used in connection with Tape B Securities means the applicable percentage of monthly CHX tape revenue from the Consolidated Tape Association generated by a particular stock. To the extent that CHX tape revenue is subject to a year end adjustment, specialist credits may be adjusted accordingly.
“Tape B Securities” are securities reported on Tape B of the Consolidated Tape Association.
For each month from September 2002 through December 2002, the Transaction Credit calculated above for each specialist firm shall be decreased by an amount equal to that specialist

firm’s “Credit Reduction Charge,” which shall be calculated as follows:
(Total CHX Monthly Tape B Transaction Credits ÷ Total CHX Monthly Tape A & B Transaction Credits) × \$40,000 = Tape B Pro Rata Share (Specialist’s Monthly Tape B Transaction Credits ÷ Total CHX Monthly Tape B Transaction Credits) × Tape B Pro Rata Share = Specialist’s Credit Reduction Charge
2. Floor Broker Credits
a. Earned Credits.

Effective January 1, 2001, total monthly fees owed by a floor broker to the Exchange will be reduced by the application of the following Earned Credit (and floor brokers will be paid each month for any unused credits):
* * * * *

For each month from September 2002 through December 2002, the Earned Credit calculated above for each floor broker shall be decreased by an amount equal to that floor broker’s “Credit Reduction Charge,” which shall be calculated as follows:
(Floor Broker’s Monthly Earned Credit ÷ Total CHX Monthly Earned Credits) × \$50,000 = Floor Broker’s Credit Reduction Charge
* * * * *

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

3. Credits for Qualified Market Makers Registered in Cabinet Securities

No change to text.

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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 CHX proposes to amend the Schedule by (1) reducing the Tape A and Tape B credits provided to Exchange specialists; (2) reducing the earned credits available to Exchange floor brokers; and (3) increasing the fixed fees charged to specialists who trade OTC securities. These changes apply for the period from September through December 2002.

The Exchange, like other business entities, sets financial goals for its operations, and attempts, throughout the year, to make decisions that permit it to meet or exceed those goals. To help meet the Exchange's goals for 2002, the Exchange has decided to temporarily reduce certain credit programs and to increase certain fees.

In doing so, the CHX has designed the proposed changes to the credit and fee arrangements to have an equal effect on the Exchange's specialist firms, as a group, and its floor broker firms, as a group. Within each of these two groups, the fee changes are designed to impact specific firms based on the level of their current participation in the credit and/or fee programs.⁵ The Exchange believes that its member firms are in agreement with this proposal.

The changes in the credit section of the Schedule (Section M) decrease the credits from the levels that were set in

July 2002 as a result of discussions with Commission staff.⁶ Among other things, the Tape B transaction credits outlined in the Schedule continue to be 50% or less.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act⁷ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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 solicited or received.

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act⁸ and subparagraph (f)(2) of Rule 19b-4 thereunder,⁹ because it involves a due, fee, or other charge. 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.¹⁰

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

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-CHX-2002-28, and should be submitted by October 30, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46589; File No. SR-NASD-2002-130]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to an Extension of the Nasdaq International Service Pilot Program

October 2, 2002.

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 September 26, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons described below, the Commission is granting accelerated approval to the proposed rule change.

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

The NASD proposes to extend for one year: (1) The pilot term of the Nasdaq International Service ("Service"); and (2) the effectiveness of certain rules ("International Rules") that are unique to the Service. This rule change does not

⁵ For example, for each of the months from September to December 2002, the Exchange's specialists that trade securities reported on Tape A of the Consolidated Tape Association, will be assessed a credit reduction charge that is based on their share of the total Tape A transaction credit for those months.

⁶ See Securities Exchange Act Release No. 46231 (July 19, 2002), 67 FR 48687 (July 25, 2002)(SR-CHX-2002-22).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ See footnote 3, *supra*.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.