

**Additional Information:**

By a vote of 4–0 on September 5, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission's rules that "Affirmation of Final Rule: 10 CFR part 63, Disposal of High-level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain Nevada" be held on September 7, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: September 13, 2001.

**David Louis Gamberoni,**  
Technical Coordinator, Office of the Secretary.

[FR Doc. 01–23205 Filed 9–13–01; 8:45 am]

BILLING CODE 7590–01–M

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–44776; File No. SR–CBOE–2001–35]

**Self Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment No. 1 thereto by the Chicago Board Options Exchange, Inc. Relating to Marketing and Administrative Fees**

September 7, 2001.

On June 18, 2001, 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> the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change to impose a one-time supplemental administrative charge against the interest payments that the CBOE's Designated Primary Market Makers received in their marketing fee accounts for fiscal year 2000. The CBOE submitted Amendment No. 1 to the proposed rule change on July 20, 2001.<sup>3</sup>

The proposed rule change was published for comment in the **Federal Register** on August 7, 2001.<sup>4</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, particularly section 6 of the Act<sup>5</sup> and the rules and regulations thereunder.<sup>6</sup> Moreover, the Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act<sup>7</sup> because it has been designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR–CBOE–2001–35) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 01–23153 Filed 9–14–01; 8:45 am]

BILLING CODE 8010–01–M

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–44777; File No. SR–CHX–2001–19]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated relating to Governance Structure**

September 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice hereby is given that on September 4, 2001, the Chicago Stock Exchange, Incorporated ("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

Director, Division of Market Regulation, Commission, dated July 19, 2001.

<sup>4</sup> See Securities Exchange Act Release No. 44628 (July 31, 2001), 66 FR 41281 (August 7, 2001).

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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.

below, which Items have been prepared by the self-regulatory organization. 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 is proposing amendments to its Certificate of Incorporation, Constitution and Rules, which would modify the Exchange's executive governance structure. Among other changes, the proposed amendments would permit the creation of a combined Chairman and Chief Executive Officer ("CEO") position and permit the CEO to name a President, who could also serve on the CHX Board of Governors.

The text of the proposed rule change is available from the Office of the Secretary of the CHX or 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 regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 amendments, which have the support of the Exchange's Governance Committee and current Chairman, are intended, among other things, to permit the creation of a combined Chairman and CEO position. By giving the Board the flexibility to appoint a person to fulfill this combined role, these changes will give the Exchange another tool to meet the challenges facing self-regulatory organizations in the always-changing securities industry. Although the proposed changes can be seen in many of the Exchange's rules and constitutional provisions, they primarily would have the following impact on the Exchange's governance.

First the CEO would replace the President as the principal executive of

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See letter from Christopher R. Hill, Legal Department, CBOE, to Nancy Sanow, Assistant

the Exchange. In the revised rules and constitutional provisions, all of the powers currently held by the President are transferred to the CEO. For example, where the Constitution now allows the President to serve on the Board, to appoint Exchange officers or to sell memberships and distribute proceeds from those sales, the power to engage in these activities would be held by the CEO.<sup>3</sup>

Second, the CEO would have the ability to name a President (who might also serve as Chief Operating Officer) as the next most senior executive. Many other corporations, including other national securities exchanges, have a similar structure. For example, the CEOs of both the New York Stock Exchange ("NYSE") and Chicago Board Options Exchange ("CBOE") can appoint a President to serve as a senior executive.<sup>4</sup>

Third, under the proposed changes, the Board would have the option to choose as Chairman either the CEO or any Governor who now is eligible to serve as Chairman. Under the current structure, the Board chooses its Chairman from among those Board members who are either serving as "non-industry" governors or as "off-floor" member governors.<sup>5</sup> The proposed changes would provide the Board another option—the CEO. By building this flexibility into the Constitution, the Board could decide that, given the challenges facing national securities exchanges today, that it should appoint a single person to act as a full-time Chairman and CEO and, in later years, still could choose to return to the existing part-time Chairman structure.<sup>6</sup>

The Board would increase in size by one person to allow the President, if any, to serve on the Board. The Exchange's Board currently is composed of the Vice Chairman of the Board, the President and 22 governors (10 member

governors and 12 non-industry governors).<sup>7</sup> Under the proposed change, the Board would consist of the Vice Chairman, the CEO, the President, if any, and 22 governors (divided among member and non-industry governors as they are today). In other words, if the CEO appointed a President, the President would serve on the Board and increase the number of persons on the Board from 24 to 25.

Additional changes in this proposal would: (1) Allow the Vice Chairman, in addition to the Chairman and the Chief Executive Officer, to be able to call meetings of the Board or the members;<sup>8</sup> (2) permit the Chairman to become a voting member of all Committees on which he serves;<sup>9</sup> and (3) correct small inaccuracies and delete unnecessary provisions.<sup>10</sup>

The Exchange believes that the proposed changes to its Certificate of Incorporation, Constitution and Rules will afford the Exchange's Board of Governors the flexibility to make optimal use of strong executive talent, without limiting in any respect the governing authority of the Board of Governors or disturbing the balance between member and non-industry Board representation. Further, the Exchange submits that the proposed changes are consistent with governance structures customary in many other corporations, including other exchanges.

## 2. Statutory Basis

The proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).<sup>11</sup> In particular, the proposed rule is

consistent with section 6(b)(5) of the Act<sup>12</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and to 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

Written comments were neither solicited nor received.

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

The foregoing rule change is concerned solely with the administration of the Exchange and has become effective pursuant to section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and subparagraph (f)(3) of Rule 19b-4.<sup>14</sup>

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 at

<sup>3</sup> See, e.g., CHX Constitution Article II, Section 5 (sales of memberships); Article III, Section 2 (serving on the Board); and Article VI, Section 4 (appointment of officers).

<sup>4</sup> See NYSE Constitution Article VI, Sections 1 and 2; and CBOE Constitution Article VIII, Sections 8.1 and 8.2.

<sup>5</sup> An "off-floor" member governor is a member who is not primarily engaged in business on the Exchange's trading floor or a general partner or an officer of a member organization that is not primarily engaged in business on the trading floor. See CHX Constitution, Article III, Section 10(3)-(5). "Non-industry" governors include, among others, public governors (who must have no material business relationship with a broker or dealer) and officers or employees of an issuer of securities listed exclusively on the Exchange. See CHX Constitution, Article III, Sections 10(1)-(4).

<sup>6</sup> Under the current structure, the Board can and has selected well-qualified and dedicated chairmen who are engaged in other activities, including working in senior jobs at other organizations.

<sup>7</sup> The Vice Chairman of the Board is a member who is primarily engaged in business on the Exchange's trading floor or a general partner or officer in a member organization that is primarily engaged in business on the floor. See CHX Constitution, Article III, Sections 2 and 10(3).

<sup>8</sup> Permitting the Vice Chairman to call meetings is appropriate because, if the changes described above are approved without this change and the Board names the CEO as Chairman, there would be only one person (the Chairman/CEO) who would have power to call these meetings.

<sup>9</sup> Allowing the Chairman to vote on the committees on which he serves is appropriate to ensure that he is a fully functioning member of the committees on which he serves.

<sup>10</sup> For example, the Exchange's Certificate of Incorporation lists an outdated address for its Delaware registered office and its Rules refer to a Committee on Market Structure that has fulfilled its purpose of working to develop appropriate plans to integrate the Exchange into "the emerging National Market System." See CHX Certificate of Incorporation, First Provision; CHX Rules, Article IV, Rule 6.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

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

<sup>14</sup> 17 CFR 240.19b-4(f)(3).

the Commission's Public Reference Room in Washington, DC. 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-2001-19 and should be submitted by October 9, 2001.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-23154 Filed 9-14-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44778; File No. SR-CHX-2001-11]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by The Chicago Stock Exchange, Incorporated Relating to Automatic Execution of Partial Orders for Dual Trading System Securities and Segmented Price Improvement of Orders

September 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice hereby is given that on May 24, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

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

The Exchange proposes to amend the CHX rules relating to: (a) The Exchange's SuperMAX 2000 price improvement algorithm, to permit price improvement of partial orders; and (b) automatic execution sequences and algorithms relating to the trading of Dual Trading System issues on the Exchange, to permit automatic execution of partial orders at the order sending firm's election. Specifically, the

Exchange proposes to amend portions of Article XX, Rule 37(a) and (b) and to add an Interpretation and Policy relating to Article XX, Rule 37(h). The text of the proposed rule change is available from the Office of the Secretary of 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 III 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 the CHX rule provisions relating to: (a) The Exchange's SuperMAX 2000 price improvement algorithm, to permit price improvement of partial orders; and (b) automatic execution sequences and algorithms relating to the trading of Dual Trading System issues on the Exchange, to permit automatic execution of partial orders at the order sending firm's election. Both changes are intended to make the Exchange and its specialists better able to accommodate the rapidly changing demands of the marketplace relating to price improvement and automatic execution of orders.

a. *Price Improvement of Partial Orders.* The proposed change to Article XX, Rule 37(h), which governs the Exchange's SuperMAX 2000 price improvement algorithm, would permit a specialist who enables SuperMAX 2000 for an issue to price improve an entire order, or to provide differing levels of price improvement for different portions of the order. For example, in the case of a 1500 share order for issue XYZ, the proposed change to the price improvement algorithm would enable the specialist to provide price improvement of \$.02 per share for the first 500 shares, \$.01 per share for the next 500 shares, and no price improvement (*i.e.*, execution at the BBO) for the last 500 shares. The differing levels of price improvement would be designated by the specialist

and would be effected by a systems change, which the Exchange expects to implement October 1, 2001.

The purpose of the proposed rule change relating to the Exchange's SuperMAX 2000 price improvement algorithm is to increase the number of opportunities for customers to receive price improvement by permitting specialists to participate in SuperMAX 2000 without requiring them to price improve an entire order. Currently, the Exchange believes that there are specialists who might not desire to offer price improvement to large orders but may be willing to offer price improvement to portions of such orders; the amended rule would allow the specialist to provide the opportunity for more orders to receive price improvement (although in some cases to less than the entire order), while providing customers with more certainty that orders would receive price improvement up to the designated level(s).

b. *Automatic Execution of Partial Orders for Dual Trading System Issues.* The other proposed changes to Article XX, Rule 37 are designed to achieve consistency between Dual Trading System issues and Nasdaq/NM securities with respect to the automatic execution of orders.<sup>3</sup> The Exchange anticipates that these changes will provide customers with greater certainty and speed of execution, and will eliminate any current confusion caused by differing automatic execution parameters.

Specifically, the Exchange proposes to amend Article XX, Rule 37(b)(6), which governs the automatic execution rules relating to Dual Trading System issues. Under the current rule, if an order's size exceeds the automatic execution threshold, the entire order is placed in the specialist's book for manual execution. However, under the proposed amendment, customers could elect automatic execution of partial orders in instances where the size of the order is greater than the automatic execution threshold designated by the specialist. If the customer elects partial automatic execution, the order would be automatically executed up to the size of the automatic execution threshold, with the balance of the order placed in the specialist's book for manual execution.

<sup>3</sup> On October 13, 2000, the Commission approved the Exchange's proposed rule change relating to automatic execution of orders for Nasdaq/NM securities. See Securities Exchange Act Release No. 43443 (October 13, 2000), 65 FR 63660 (October 24, 2000). The approved rule change included provisions relating to automatic execution of partial orders for Nasdaq/NM securities and the automatic execution threshold established by the CHX specialist.

<sup>15</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.