

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

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*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47443; File No. SR-CHX-2002-40]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Zero-Second Display of Certain Limit Orders

March 4, 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 December 26, 2002, the Chicago Stock Exchange, Inc. ("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 January 10, 2003, the exchange filed an amendment to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.<sup>4</sup>

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

The Exchange proposes to amend Article XX, Regular Trading Sessions, CHX Rule 7, Recognized Quotations, and CHX Rule 37, Guaranteed Execution System and Midwest Automated

Execution System, which govern, among other things, display of limit orders in a specialist's book. The text of the proposed rule change is below. Proposed new language is in italics.

#### Chicago Stock Exchange Rules

Article XX Regular Trading Sessions

\* \* \* \* \*

#### Recognized Quotations

##### RULE 7

No change to text.

#### • • • Interpretations and Policies:

.01-.04 No change to text.

.05 (a) Quotation sizes, unless otherwise specified, shall be assumed to be for 100 shares. With respect to agency limit orders received by specialists, each specialist shall publish immediately (*i.e.*, as soon as practicable, which under normal circumstances means no later than 30 seconds from time of receipt, *subject to the provisions below relating to agency limit orders designated "post protection only"*) a bid or offer that reflects:

(i) The price and full size of each agency limit order that is at a price that would improve the specialist's bid or offer in such security; and

(ii) The full size of each agency limit order that is priced equal to the specialist's bid or offer for such security.

(b) The requirements with respect to specialists' display of limit orders shall not apply to any limit order that is:

(i) Executed upon receipt of the order;

(ii) Placed by a person or entity who expressly requests, either at the time the order is placed or prior thereto pursuant to an individually negotiated agreement with respect to such person's orders, that the order not be displayed;

(iii) An odd-lot order;

(iv) Delivered immediately upon receipt to an exchange or association-sponsored system or an electronic communications network that complies with the requirements of Securities and Exchange Commission Rule 11Ac1-1(c)(5) under the Securities Exchange Act with respect to that order;

(v) Delivered immediately upon receipt to another exchange member or over-the-counter market maker that complies with the requirements of Securities and Exchange Commission Rule 11Ac1-4 under the Securities Exchange Act with respect to that order;

(vi) An all or none order; or

(vii) A block size order, unless the customer order is received with a request that the order be displayed.

*If a floor broker designates an agency limit order, in a manner specified by the Exchange, as "post protection only,"*

*and sends that order to the specialist via the MAX system, the specialist receiving such order shall display the limit order in zero seconds. Such order will not be entitled to primary market price protection or other protections due limit orders under Article XX, Rule 37(a)(3).*

\* \* \* \* \*

Guaranteed Execution System and Midwest Automated Execution System

\* \* \* \* \*

RULE 37(a). Guaranteed Executions.

\* \* \* \* \*

3. Dual Trading System Agency Limit Orders. Subject to Interpretation and Policy .10 ("Exempted Trade-Throughs"), all agency limit orders in Dual Trading System issues will be filled under the following circumstances:

(a) Exhaustion of primary market bid or offer. When the bid or offering at the limit price has been exhausted in the primary market (as defined in the CTA plan), agency limit orders will be executed in whole or in part, based on the rules of priority and precedence, on a share for share basis with trades executed at the limit price in the primary market;

(b) Price penetration in primary market. When there has been a price penetration of the limit in the primary market, agency limit orders that have resided in the specialist's book for a period of 0-15 seconds (as designated by the specialist) prior to the primary market print will be filled at the limit price;

(c) Primary market trading at the limit price. When the issue is trading at the limit price on the primary market, agency limit orders will be filled at the limit price unless it can be demonstrated that such orders would not have been executed if they had been transmitted to the primary market or the broker and specialist agree to a specific volume related or other criteria for requiring a fill; and

(d) Block size trade-through in another market. In instances where a block trade on the Exchange or other market against which orders are being protected takes place outside the current Exchange quotation, all effective bids or offers limited to the block price or better will be executed at the more favorable block price rather than at the limit price of the affected orders. A specialist may elect to provide automatic execution of designated limit orders at the block price or better when a "block size" (as defined in Article XX, Rule 40, Interpretation and Policy .05) trade-through is executed on the primary market.

<sup>13</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 letter, dated January 9, 2003, from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission ("Amendment No. 1"). In Amendment No. 1, the CHX provided additional clarity as to the full extent of limit order protection that would be forfeited by a floor broker that elects "post protection only" ("PPO") under the proposed rule change.

<sup>4</sup> The CHX requested that the Commission make various non-substantive typographical corrections to the notice in the rule language and purpose section. In addition, the CHX requested that the Commission add an additional protection related to block trades as described in footnote 7 below. Such protection was added due to an intervening CHX rule change that was not in place at the time of filing of the instant proposed rule change. Telephone conference between Kathleen M. Boege, Associate General Counsel, CHX, and Christopher B. Stone, Special Counsel, Division, Commission (March 3, 2003).