

SR-CHX-2002-39 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-1053 Filed 1-16-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47175; File No. SR-CHX-2002-38]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Membership Dues and Fees

January 13, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on December 23, 2002, the Chicago Stock Exchange, Inc. ("Exchange" or "CHX") submitted to 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 CHX. The Exchange has 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,<sup>3</sup> which renders the proposal effective upon filing with the SEC.<sup>4</sup> 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 CHX proposes to amend its membership dues and fees schedule (the "Schedule"), effective January 1, 2003, to: (1) Increase membership dues from \$5,000 to \$6,000 per year; (2) eliminate the fee relating to member firm branch offices; (3) extend the OTC Fixed Fee Charge, Listed Specialist Credit Reduction Charge and Floor Broker Credit Reduction Charge; (4) increase the monthly caps on transaction fees on orders sent through the Exchange's MAX® system; (5) add a new

processing fee for certain transactions in OTC securities; and (6) revise references to certain Nasdaq charges and make other clarifying changes.

The text of the proposed rule change is below. Proposed additions are in *italics* and proposed deletions are in [brackets].

#### Membership Dues and Fees

\* \* \* \* \*

##### A. Membership Dues and Transfer Fees

All members: Effective [April 1, 2000] *January 1, 2003*, [\$5,000] *\$6,000* per year, payable monthly in equal installments.

Transfer of memberships: No change to text.

##### B. Self-Regulatory Organization Fee

No change to text.

##### C. Registration Fees

Firm or Corporation: No change to text.

[Office (other than principal)]:

[\$25 per year (up to a maximum of 1,500 offices each year) and \$25 for each additional registration during the year.]

Off-Floor Traders: No change to text.

Clerks: No change to text.

Registration Processing Fees: No change to text.

##### D. Specialist Assignment Fees

No change to text.

##### 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 Firms Trading Nasdaq/NMS Securities =

The lowest monthly fixed fee charged each member firm for the 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,] E[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.

\* \* \* \* \*

#### F. Transactions and Order Processing Fees

1. SEC Transaction Fees: No change to text.

2. NASD Fees on Cleared Transactions: No change to text.

3. Order Processing Fees: No change to text.

4. Transaction Fees:

a. to g: No change to text.

h. Effective January 1, [2001] *2003*, monthly maximums for fees:

(1) Maximum monthly transaction fees [\$7,000] *\$10,000* for orders sent via MAX

(2) Maximum monthly transaction fee \$110,000 for transactions in NASDAQ/NMS Securities (*other than transactions included in (1) above*)

(3) Maximum monthly transaction fee \$110,000 for transactions in Dual Trading System Securities (*other than transactions included in (1) above*)

(4) Maximum monthly transaction fees shall not exceed the lesser of that specified in (1), (2) or (3) above, or \$.40 per 100 average monthly gross round lot shares.

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#### H. Equipment, Information Services and Technology Charges

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Telephone Charges: No change to text.

[Tools of the Trade Access]

[Each specialist firm shall be billed on a monthly basis, based on usage by each of the firm's OTC/UTP co-specialists, for actual Tools of the Trade access charges that become due in accordance with the Exchange's license agreement with Financial Systemware, Inc.]

[Tools of the Trade Connection Charges]

[All Tools of the Trade Connection Charges (*i.e.*, the costs of providing access to and use of the Exchange's Tools of the Trade server to facilitate OTC/UTP trading) shall be allocated pro rata on a monthly basis among all specialist firms that use Tools of the Trade in OTC/UTP trading, based on the number of OTC/UTP co-specialists at each firm using Tools of the Trade software.]

Server and Network Infrastructure: All Server and Network Infrastructure.

Charges; Nasdaq Connection Charges: Charges and all Nasdaq Connection Charges (*i.e.*, the costs of providing access to and use of the Exchange's Nasdaq servers to facilitate OTC/UTP

<sup>11</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)(ii).

<sup>4</sup> The proposal affects only fees and charges assessed to members. Telephone conversation between Ellen Neely, General Counsel, CHX and Tim Fox, Attorney, Division of Market Regulation, Commission, January 9, 2003.