

of orders received by it for presentation to responsible brokers or dealers. The Commission intends to monitor closely the CBOE's efforts in this regard.

#### *E. Obligations of Market Makers*

CBOE Rule 8.7 governs market maker obligations. Market makers on the CBOE Hybrid System would continue to be subject to the obligations imposed by this rule, as amended. The proposed change to Section (b)(ii) of CBOE Rule 8.7 clarifies that market makers would be obligated to honor their quotes for up to their disseminated size, in accordance with the Quote Rule. In addition, market makers would be deemed the "responsible broker or dealer" for quotes they cause to be disseminated.

Under Hybrid, market makers would be able to quote verbally in open outcry in response to a request for a market, or to quote electronically (or submit orders electronically) by use of an exchange-approved quoting device. CBOE Rule 8.7 also would clarify that market makers must be physically present in the trading crowd to quote and submit orders. Market maker quotes would be required to be for ten contracts or more. This size obligation would apply only to a market maker's initial undecrement quote.

In addition, the Exchange proposes new paragraph (d) to CBOE Rule 8.7, which would establish additional obligations for market makers trading Hybrid classes.<sup>74</sup> Specifically, if a market maker on the CBOE Hybrid System transacts more than 20% of its contract volume electronically in an appointed Hybrid class during any calendar quarter, the market maker would be required to maintain continuous, two-sided quotes for at least ten contracts in a designated percentage of series within the class, depending on the percentage of the market maker's contract volume transacted electronically.<sup>75</sup> The following schedule would apply:

% of Overall Class Volume Transacted on CBOE During the Previous Quarter that was Transacted Electronically	Electronic Quoting % Requirement (Percentage of series)
50 or Below .....	20
51-75 .....	40
Above 75 .....	60

Such market makers also would be required to provide a two-sided market for a minimum of ten contracts in response to any request for quote by a floor broker or DPM representing an

order as agent. Finally, such market makers would be required to comply with the quote-width requirements contained in CBOE Rule 8.7(b)(iv).

Market makers that transact 20% or less of their contract volume electronically would be required to provide a two-sided market for a minimum of ten contracts in response to any request for quote by a floor broker or DPM representing an order as agent. Such verbal quotes would be required to comply with the quote-width requirements in CBOE Rule 8.7(b)(iv). These market makers' electronic quotes, however, would not be required to comply with the quote-width requirements of CBOE Rule 8.7(b)(iv). Although these market makers would not be obligated to quote electronically in any designated percentage of series within that class, any volume transacted electronically by such market maker would not count towards their in-person requirement in CBOE Rule 8.7.03(B).<sup>76</sup>

Market makers receive certain benefits for carrying out their duties. For example, a lender may extend credit to a broker-dealer without regard to the restrictions in Regulation T of the Board of Governors of the Federal Reserve System if the credit is to be used to finance the broker-dealer's activities as a specialist or market maker on a national securities exchange.<sup>77</sup> The Commission believes that a market maker must have an affirmative obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis to justify this favorable treatment. In this regard, by excluding electronic transactions from satisfying a market maker's in-person requirements where the market maker transacts only 20% or less of its contract volume electronically and is not required to continuously quote or comply with quote-width requirements, the Commission believes that CBOE's rules impose such affirmative obligations on CBOE Hybrid market makers.

#### **V. Accelerated Approval of Amendments No. 5 and 6**

The Commission finds good cause for approving Amendments No. 5 and 6 to the proposed rule change prior to the thirtieth day after the amendment is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.<sup>78</sup> Amendments No. 5 and 6 merely make clarifications to the proposed rule text in response to

comments made in the ISE Letter and by Commission staff. Therefore, the Commission believes that accelerated approval of Amendments No. 5 and 6 is appropriate.

#### **VI. Conclusion**

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with section 6(b)(5) of the Act.<sup>79</sup>

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>80</sup> that the proposed rule change (SR-CBOE-2002-05) and Amendments No. 1, 2, 3, and 4 are approved, and that Amendments No. 5 and 6 thereto are approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>81</sup>

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

[FR Doc. 03-14368 Filed 6-6-03; 8:45 am]

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47951; File No. SR-CHX-2003-13]

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated To Extend a Pilot Rule Interpretation Relating To Trading of Nasdaq/NM Securities in Subpenny Increments**

May 30, 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 May 28, 2003, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission. The Commission is

<sup>79</sup> 15 U.S.C. 78f(b)(5).

<sup>80</sup> 15 U.S.C. 78s(b)(2).

<sup>81</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).

<sup>4</sup> 17 CFR 240.19b-4(f)(6). The Commission waived the 5-day pre-filing notice requirement.

<sup>74</sup>, <sup>75</sup> The proposed obligations in paragraph (d) would be applicable on a per class basis and would apply only to market makers trading on the CBOE Hybrid System and only in those Hybrid classes.

<sup>76</sup> All market makers electronically quoting in a Hybrid class would be required to post an initial undecrement bid or offer of at least ten contracts.

<sup>77</sup> See 12 CFR 221.5(c)(6).

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