

potentially confusing; it may also operate to the financial detriment of the CHX.

For the foregoing reasons, the CHX believes that it is appropriate to delete Article XX, Rule 7, Interpretation and Policy .02. The CHX anticipates that deletion of the mandatory \$.10 auto-quote spread will result in a significant reduction in CHX quotation traffic, which benefits the national market system. Moreover, because the vast majority of the Exchange's automatic executions are based on execution guarantees that supplement the specialist's quotation, the Exchange does not believe that the proposed rule change will have any negative effect on execution prices.⁸ In short, the only material consequence of the proposed rule change will be CHX specialist quotations that do not flicker continuously throughout the trading day. The CHX would note that each CHX specialist remains subject to their fundamental obligation to maintain "fair and orderly markets."⁹ The CHX believes that this obligation will ensure that specialists will not abuse the auto-quote functionality to generate quotations that are useless or disruptive to the national market system.

2. Statutory Basis

The CHX believes the proposal 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).¹⁰ The CHX believes the proposal is consistent with section 6(b)(5) of the Act¹¹ in that it is designed to promote just and equitable principles of trade, to remove impediments, 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 burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change, as amended.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-CHX-2003-17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 filings will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-2003-17 and should be submitted by January 21, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48985; File No. SR-CHX-2003-37]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to ITS Trade-Throughs

December 23, 2003.

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 November 26, 2003, the Chicago Stock Exchange, Inc. ("CHX") 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. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(1)⁴ thereunder, which renders the proposal effective upon filing with the Commission. 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 proposes to amend certain provisions of CHX Article XX, Rule 40, which incorporates certain provisions of the Intermarket Trading System ("ITS") Plan ("ITS Plan"). Specifically, the CHX seeks to add Interpretation and Policy .06 to expressly recognize that certain executions will not be considered "trade-throughs" if an ITS commitment is sent contemporaneously with the execution of a trade through the bid or offer of another market center.

The text of the proposed rule change is below. Proposed new language is in *italics*.⁵

* * * * *

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-1 4(f)(1).

⁵ The Commission made a technical change to the rule text to address a minor error in the proposed

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⁸ CHX Article XX, Rule 37(b) requires that orders executed automatically on the CHX be executed at the national best bid or offer in effect at the time the order is received.

⁹ See CHX Article XXX, Rule 1, Interpretation and Policy .02.

¹⁰ 15 U.S.C. 78f(f)(b).

¹¹ 15 U.S.C. 78f(b)(5).