

the order at the price of the electing transaction.

The Commission also believes that the proposed approach sets forth adequate objective criteria to guide the specialist's representation of the order. Although the execution of certain percentage orders, particularly percentage orders that have been converted by a specialist, may present issues relating to the proper amount of discretion allowed to the specialist executing such orders, Immediate Execution or Cancel Election percentage orders do not raise such concerns. Specifically, a specialist must execute an Immediate Execution or Cancel Election percentage order at the instructed election price immediately upon the occurrence of a trade at the electing price or better, or treat the transaction as canceled.

In addition, the Commission notes that Amex's proposed Immediate Execution or Cancel Election percentage order is similar to the Immediate Execution or Cancel Election percentage order adopted by the New York Stock Exchange, Inc. ("NYSE").<sup>8</sup>

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-Amex-2002-102) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47369; File No. SR-CHX-2003-01]

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

February 14, 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 January 30, 2003, the Chicago Stock Exchange,

Incorporated ("CHX" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"). The proposed rule change is described in Items I, II and III below, which Items have been prepared by the Exchange. The CHX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> 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 its membership dues and fees schedule (the "Schedule"), effective February 1, 2003, to modify various technology charges and establish a new connectivity fee. The proposed fee schedule is available at the CHX and 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 CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 rule change amends the Schedule by revising the charges assessed to on-floor member firms for the computer equipment and other technology that the Exchange provides. In some cases, these costs have decreased; in other cases, these costs have increased.<sup>4</sup> The Schedule also contains updated references to the equipment provided by the Exchange and combines, in one list, the previously separated charges for equipment provided to floor brokers and

to specialists trading listed and OTC securities.

In addition to the changes to existing charges, the Exchange also proposes to begin charging a fee for the connectivity it provides its on-floor members to three separate networks. In the past, these charges had been partially included in other fees, such as those for monitors and computers. By charging separately for the connectivity provided to member firms, the Exchange can more appropriately pass on connectivity costs directly to the firms that receive specific services.

###### 2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6(b)(4) of the Act<sup>5</sup> in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

##### B. Self-Regulatory Organization's Statement on Burden on Competition

The CHX does not believe that the proposed rule change will result in any burden on competition that is 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.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>7</sup> because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the 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

<sup>8</sup> See NYSE Rule 13; see also Securities Exchange Act Release No. 39837 (April 8, 1998), 63 FR 18244 (April 14, 1998) (order approving NYSE-97-38).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</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> For example, the fees for monitors would be substantially decreased, while the Exchange would charge a higher fee for soon-to-be-acquired laser printers.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).