SR–CBOE–98–51 and should be submitted by January 12, 1999.

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. 34–40793; File No. SR–CHX–98–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Exchange's Decorum Rules, Short Sales and Minor Rule Violation Plan

December 15, 1998.

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 September 29, 1998,[3] the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 (1) Interpretation and Policy .01 of Rule 3 of Article XII relating to the Exchange's Decorum Rules regarding repetitive administrative/execution messages; (2) Rule 17 of Article IX, to codify the existing requirement for members to comply with Rule 10a–1 under the Act (''Short Sale Rule''); and (3) Rule 9(h) of Article XII, to add certain rules and policies to the Exchange's Minor Rule Violation Plan.

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 Exchange 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 self-regulatory organization 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 Exchange first proposes to amend the list of Class B violations set forth under Rule 3, Article XII of the Exchange's Decorum Rules to include repetitive administrative/execution messages sent over the Intermarket Trading System (''ITS'') or the Midwest Automated Execution System (''MAX'') that are indecorous, inappropriate or unnecessary. In addition, because the Exchange believes that violations of this rule are objective in nature and easily verifiable, the Exchange proposes to include these violations as Class B violations for purposes of the Minor Rule Violation Plan and proposes to retain the existing recommended fines for Class B violations of the Decorum Rates.

Second, the Exchange proposes to codify in its rules the existing requirement for members to compy with the Short Sale Rule. Codifying the Short Sale Rule within the Exchange rules will allow the Exchange to assess fines for violation of the Short Sale Rule under its Minor Rule Violation Plan in appropriate circumstances, as discussed more fully below.

Finally, the Exchange proposes to add certain rules and policies to the Exchange's Minor Rule Violation Plan under Article XII, Rule 9. Specifically, the Exchange is adding violations of its rules relating to: (1) Proprietary short sales by floor members (Article IX, Rule 17) (*e.g.*, failing to properly mark a short sale a short and executing a short sale at an inappropriate tick); (2) the issuance of pre-opening responses under the ITS Rules (Article XX, Rule 39) (*e.g.*, using Designated Order Turnaround (''DOT''), Post Execution Reporting (''PER''), or any method other than ITS to send a pre-opening response); and (3) the failure of a specialist to adjust limit orders to the block price when the MAX automatically executes such limit orders at the limit price upon a price penetration in the primary market (Article XX, Rule 7.06 and related Rule 37(b)(6) of Article XX). The Exchange believes that violations of these rules are objective in nature and are easily verifiable. Thus, the Exchange believes that violations of these rules in inadvertent or isolated circumstances should be handled under the Exchange's Minor Rule Violation Plan and not pursuant to the Exchange's formal disciplinary procedures.[4] The Exchange proposes that the recommended fines for the above violations be $100, $500, and $1,000 for the first, second, third and subsequent violations, respectively, except for violations of the Short Sale Rule, the recommended fines would be $500, $1,000 and $2,500 for the first, second, and third subsequent violations, respectively.[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b)(1),[6] 6(b)(6),[7] 6(b)(7),[8] 6(d)(1)[9] and 19(d)[10] of the Act. The Exchange believes the proposal is consistent with the Section 6(b)(6) requirement that the rules of an exchange provide that its members and persons associated with its members

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed Amendment No. 1 with the Commission on December 2, 1998. The amendment provides an example of an ''inadvertent'' violation, modifies the recommended fine schedule to increase the proposed recommended fines for short sale violations, and makes non-substantive changes. *See* Letter from Patricia L. Levy, Senior Vice President and General Counsel, the Chicago Stock Exchange, Inc., to Mignon McLemore, Division of Market Regulation, SEC, dated December 1, 1998.

[4] An inadvertent violation of the Short Sale Rule might occur, for example, if a specialist that is long 1,000 shares of a security sends an order to sell 1,000 shares in that security to the NYSE via a NYSE DOT machine. Because a specialist's inventory is not automatically updated to reflect executions over a DOT machine (unlike executions on the CHX or via ITS which are automatically reflected in a specialist's inventory on a real-time basis), it is possible that a specialist may either forget about the DOT order, or may be late in manually updating his inventory position to reflect the sale via DOT. In either event, the specialist's inventory at that time would not reflect that the specialist is now ''flat'' rather ''long'' the security. If the specialist than marks his next sale as ''long'' rather than properly marking the order as ''short,'' it might be because the specialist merely looked at his inventory position and did not take the DOT order into account in determining whether he was long or short. While this would still be a violation of the short sale rule, depending on the totality of the facts (*e.g.*, whether this is isolated or part of a larger fraud, or if other unusual circumstances existed, etc.) in certain circumstances, this violation might be considered an ''inadvertent'' violation that is appropriate for the minor rule violation plan. *See* Amendment No. 1, *supra* note 3.

[5] *See* Amendment No. 1, *supra* note 3.

[6] 15 U.S.C. 78f(b)(1).

[7] 15 U.S.C. 78f(b)(6).

[8] 15 U.S.C. 78f(b)(7).

[9] 15 U.S.C. 78f(d)(1).

[10] 15 U.S.C. 78s(d).

shall be disciplined appropriately for violations of the rules of the exchange. The Exchange also believes that the proposal provides an efficient procedure for appropriate disciplining of members for rule violations that are objective in nature. Morever, because CHX Article XII, Rule 3, provides procedural rights to the person fined and permits a disciplined person to appeal or request review of the matter, the Exchange believes the proposal provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.

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

The Exchange does not believe that the proposed rule change will impost any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 its 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 such 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–98–24 and should be submitted by January 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40792; File No. SR–PCX–98–61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Cordless Telephone Fees

December 15, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4(e)(2) thereunder,[2] notice is hereby given that on December 4, 1998, the Pacific Exchange, Inc. (''PCX'' 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 PCX. 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 is proposing to change its Schedule of Fees and Charges for Exchange Services by reducing cordless telephone charges. The text of the proposed rule change is available at the Office of the Secretary, the PCX 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 PCX 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 PCX 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 Exchange originally imposed a fee of $50 per month per cordless telephone on Options Floor members to reflect the costs of upgrading the Erickson cordless telephone system.[3] It was determined at the time of the upgrade that a fee of $50 per month per cordless telephone would be required to cover the costs of the system over the useful life of the system.

The Exchange proposes to reduce the fees associated with cordless telephone use on the Options Floor from $50 per month per cordless telephone to $40 per month per cordless telephone. An analysis of the cordless telephone fees based on actual costs incurred indicates that a fee of $40 per month per cordless telephone is sufficient to cover the costs incurred by the upgrading of the Erickson cordless telephone system over the anticipated useful life of the system. The Exchange estimates that the useful life of the system is approximately four years. At $40 per month per cordless telephone, the PCX can recover expenses incurred for the Erickson telephone system over a 4-year period.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[4] of the Act, in general, and furthers the objectives of Section 6(b)(4),[5] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

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

The PCX does not believe that the proposed rule change would impose any inappropriate burden on competition.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4(e)(2).

[3] *See* Securities Exchange Act Release No. 40293 (July 31, 1998), 63 FR 42896 (August 11, 1998).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).