It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–CBOE–2001–70) is approved, as amended, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–8210 Filed 4–4–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45675; File No. SR–CBOE–2002–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Rebate of Fees Assessed on Certain Trades Submitted for Matching and Clearing Solely To Correct Trades That Clear Incorrectly Due to Manual Data Entry Errors

March 29, 2002.

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 March 19, 2002, the Chicago Board of Options Exchange, Inc. (''CBOE'' 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 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 authorize a rebate of fees that are assessed on trades submitted for matching and clearing solely to correct trades that clear incorrectly due to manual data entry or ''key punch'' errors. The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

FEE SCHEDULE

MARCH 01, 2002

MEMBER TRANSACTION FEE POLICIES AND REBATE PROGRAMS

MEMBER TRANSACTION FEES—INDEX OPTIONS (Unchanged)

* * * * *

MEMBER TRANSACTION FEES—EQUITY & INDEX OPTIONS (Unchanged)

* * * * *

ERROR ACCOUNT TRANSATIONS (Unchanged)

* * * * *

MISCLEARED TRANSACTIONS

On occasion, options transactions are matched and cleared as a result of certain keypunch errors and members are forced to execute subsequent transactions to achieve the originally intended results. A qualifying keypunch error is any error that is inadvertent and creates a duplicate fee or fees to be charged in the matching and clearing of corrective options trades. The CBOE shall have the discretion to rebate any duplicate transaction and trade match fees incurred in the course of correcting such errors. Only those transactions that require a minimum of 500 contracts to correct the error or errors shall be eligible for this rebate.

A written request with all supporting documentation (trade date, options class, executing firm and broker, opposite firm and broker, premium, and quantity) and a summary of the reasons for the error must be submitted to the CBOE Accounting Department within 60 days after the last day of the month in which the error occurred. This rebate program shall apply to all applicable fees collected under Section 1 (Options Transaction Fees), Section 2 (Trade Match Fee), and Section 3 (Floor Brokerage Fee) of the Chicago Board Options Exchange, Inc. Fee Schedule, as amended from time to time.

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 Exchange 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 collects transaction fees and trade match fees for the many different types of equity and index option orders that are executed on the Exchange. [3] In the course of collecting these fees, the Exchange has discovered that, in certain situations, these fees should be rebated to members. On rare occasions, the Exchange finds that an options trade will be matched and cleared inappropriately as a result of a manual data entry or ''key punch'' error. In order to put the parties in the originally desired position, another transaction (or transactions) must be submitted through the trade match and clearing process to accurately reflect the intended transactions on the Exchange in accordance with Exchange rules. The Exchange states that these corrective transactions, like any other transaction submitted for matching and clearing, are subject to and will be assessed the appropriate fees in accordance with the Exchange's fee schedule. Depending on the size of the trades involved, the Exchange further states that the cost to the affected parties can be considerable. As such, the Exchange believes that it is appropriate to refund, with limitations, to the affected parties the fees generated by the transactions required to correct this type of error.

To qualify for this rebate, the error in question must be of a narrow scope. Specifically, the trade must be directly related to the entering of pertinent trade information for clearing purposes. For instance, the Exchange states that the typical situation would involve a member's clerk, or other similar personnel, inputting the wrong clearing firm code into the appropriate form or program. As a result, the trade is cleared through the wrong clearing firm and, in order to correct the situation, corrective transactions are entered to reverse the error trades and then new trades are submitted to reflect the original intentions of the parties. Because the fee assessment process is automated, transaction fees are unavoidably incurred through the subsequent execution of the corrective transactions. As a matter of economy, the Exchange has established a *de minimis* standard for qualifying members for a rebate. Only those transactions that require a minimum of 500 contracts to correct the error, or errors, would be eligible for

---

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* ''Chicago Board Options Exchange, Inc. Fee Schedule'' as amended from time to time.

this rebate. The Exchange further notes that the member will only be refunded the amount of fees above what is necessary to execute the originally intended transactions.

Additionally, the party seeking the rebate must provide in writing, at a minimum, a summary of the reasons for the error and all supporting information (trade date, options class, executing firm and broker, opposite firm and broker, premium, and quantity) and the written request must be submitted to the CBOE Accounting Department within 60 days after the last day of the month in which the error occurred. The Exchange will retain the discretion to determine, on a case-by-case situation, whether the transactions in question qualify for the rebate. This rebate program will be reflected on the Chicago Board Options Exchange, Inc. Fee Schedule and, upon Commission approval, members will be notified of the rebate program through an informational circular.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(4),[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

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 solicited or received with respect to the proposed rule change.

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

The foregoing rule change establishes or changes a due, fee, or charge imposed by the Exchange and, therefore, has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(f)(2) hereunder.[7] At any time within 60 days of the filing of such 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 purpose 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 change 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. 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 filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2002–13 and should be submitted by April 26, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–8211 Filed 4–4–02; 8:45 am]

BILLING CODE 8010–01–P

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

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

[6] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45661; File No. SR–CHX–2002–07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Amending the Specialist Fee Schedule for Certain Nasdaq National Market Securities

March 27, 2002.

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 March 4, 2002, the Chicago Stock Exchange, Inc. (''CHX'' 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 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 its membership dues and fees schedule (''Schedule'') to provide for a specialist's exemption for otherwise applicable fees in the case of certain modestly-traded Nasdaq National Market (''NNM'') securities. The text of the proposed rule change is available at the principal offices of 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 Exchange included statements concerning the purpose of, and the 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. 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 Exchange is proposing to amend the Schedule to provide for a specialist's exemption from otherwise applicable fees in the case of certain modestly-traded NNM securities. Specifically, the proposed changes to the Schedule would exempt ''Exemption Eligible Securities''[3] from otherwise applicable

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

[2] 17 CFR 240.19b–4.

[3] ''Exemption Eligible Security'' means any NNM security that averages fewer than 400 trades per day in the Nasdaq marketplace on an average daily basis during the applicable three-month measuring period. In the case of a NNM security assigned to a CHX specialist, the CHX shall make a semi-annual determination based on the most recent available data for the three-month period preceding the determination date. In the case of a NNM security that is not currently assigned to a CHX specialist, the CHX shall make its determination based on the most recent available data for the three-month period preceding the date on which a specialist submits an application for assignment of the security. Any NNM security that has been traded in the Nasdaq marketplace for less than three months (or for which three months' data is unavailable) is expressly excluded from this definition.