

percentage of contra side shares allotted to the specialist's orders to the number of competing floor brokers on parity would divide the specified execution as equally as possible, while providing an easy to use formula whose implementation is not unduly disruptive to trading. In addition, the Amex believes this change would facilitate the ability of the specialist, who normally represents multiple customer orders, to compete with floor brokers in the trading crowd, who normally only represent one customer order each.

The final aspect of the proposal concerns the adjustment of stop limit orders when a security is quoted ex-divided, ex-distribution, ex-rights, or ex-interest. When a security is quoted ex-divided, ex-distribution, ex-rights, or ex-interest (except for stock dividends and distributions), Amex Rule 132(a) generally provides that a specialist must reduce all open orders to buy and open stop orders to sell by the cash value of the payment or rights. However, there occasionally has been some confusion concerning stop limit orders because the rule does not specifically provide that both the limit and the stop price must be reduced. Therefore, the Exchange proposes to amend paragraph (a) to provide such specificity. This change also will conform Amex Rule 132 to New York Stock Exchange ("NYSE") Rule 118.

The Commission finds that 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 Section 6(b).⁵ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, and, in general, to protect investors and the public interest.⁷

The Commission supports the Amex's efforts to continue to review the form and substance of its regulations. In this regard, the Commission agrees with the Exchange's assertion that the proposed to Amex rules 135, 152, 340, 171, 904,

and 950 will eliminate or update requirements that no longer serve a meaningful regulatory purpose. In addition, the Commission believes that adding Bloomberg Business News to the Exchange's list of approved services for disclosure of material information should facilitate the dissemination of important information, thereby enhancing the quality of the markets.

The Commission also believes the changes concerning the precedence of orders are consistent with the Act. These changes should allow specialists, who often represent many orders, to compete more equitably with traders in the crowd, who often represent only one order. The Commission believes it is reasonable for the Exchange to conclude that the percentages selected should divide the specified execution in an equitable manner, while providing an easy to use formula whose implementation should not disrupt trading. Moreover, the Commission believes this practice serves the function addressed by procedures in place at other exchanges that facilitate the execution of customer limit orders.⁸

Finally, the Commission believes it is appropriate to require specialists to adjust open stop limit orders to sell when a security is quoted "ex" to ensure that these orders will continue to be handled according to the sellers' original intentions and to preserve the ability of these orders to obtain the best price available. Moreover, for the purposes of Amex Rule 132(a), open stop limit orders to sell and open stop orders to sell are essentially the same. The only difference between these orders is that a stop limit order to sell places a floor on an acceptable execution price whereas a stop order to sell will accept whatever the current market price is after a transaction occurs at or below the stop order's sell price.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-Amex-96-39) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

⁸ See, e.g., NYSE Rule 72. NYSE Rule 72 permits the largest bid (offer) to "size out" other smaller bids (offers) that are on parity with it. However, all bids (offers) in "the book" that are on parity with the larger bids (offers) in the trading crowd are aggregated for precedence purposes to facilitate the ability of the book to compete with the trading crowd for contra side order flow. Moreover, a specialist may further increase the opportunity for bids (offers) in the book to size out bids (offers) in the trading crowd by combining his bid (offer) for his own account with the bids (offers) in the book, if he so chooses. NYSE Rule 108.10.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34-38237; File No. SR-CHX-97-01]

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

February 4, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 17, 1997, 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, II, and III below, which Items have been prepared by the self-regulatory organization. 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, pursuant to Rule 19b-4 of the Act, submits a proposed rule change amending the CHX's Schedule of Fees relating to specialists effective February 1, 1997. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

Membership Dues and Fees * * *

(b) Registration Fee:
Firm or Corporation—No change in text.
Office (other than principal)—No change in text.

Officers or Partners—No change in text.m

Salesmen—No change in text.

[Specialist—Fees will be determined based upon the monthly round lot activity of an issue on the MSE, and shall be paid monthly, according to the following:

The 300 most active issues shall be charged at a rate of \$400 per year. All other issues shall be charged at a rate of \$100 per year.]

Specialist Assignment—There shall also be an assignment fee of \$500 per issue upon the approval by the Committee on Specialist Assignment and Evaluation of an application of a member or member organization to act as specialist in a

¹ 15 U.S.C. 78s(b)(1).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ In making this finding, the Commission notes that the proposal should increase efficiency by eliminating a source of confusion among Amex members and removing outdated provisions. See 15 U.S.C 78c(f) (noting that it is in the public interest to consider whether an action will promote efficiency, competition, or capital formation).

security. However, this fee shall be applicable in competitive assignments only.

Subordinated Loans—No change in text.
Transfer—No change in text.

(4) Specialist Fees:

[25¢ per trade plus 1½¢ per \$1,000 of valuation payable on round lot sales (or major fraction thereof) as principal whenever the Specialist makes such sale as principal on the Exchange.]

Specialists will be assessed a fixed fee per assigned stock on a monthly basis, to be calculated as follows:

Fixed Fee Per Stock = \$345,000 × Percent of Fixed Costs Per Tier × CTA Trade Volume Per Stock / CTA Trade Volume Per Tier.

82% of the Fixed Fee Per Stock shall be designated as a "Registration Fee," and 18% of such Fee shall be designated as a "Clearing Support Fee."

"Percent of Fixed Costs Per Tier" is taken from the following table:

Tier	Description of tier	Percent of fixed costs per tier
1	1–25 Most Active Stocks	11
2	26–100	11
3	101–250	12
4	251–500	13
5	501–1000	19
6	1001–2700+	34

Classification of a particular stock for a particular Tier is based on the total number of trades reported to the Consolidated Tape Association in such stock for a specific month.

"CTA Trade Volume Per Stock" means the total number of trades reported to the Consolidated Tape Association in a specific stock for a specific month.

"CTA Trade Volume Per Tier" means the total number of trades reported to the Consolidated Tape Association in all stocks classified in a particular Tier for a specific month.

A specialist's Fixed Fee Per Stock will be waived until February 1, 1999, for any stock unassigned to any specialist as of December 1, 1996 and assigned to such specialist without competition by May 1, 1997.

(o) Clearing Support Fees *

(1) Account Fees, No change in text.

(2) CUSIP Fees:

Specialist OTC CUSIP—\$50 per OTC CUSIP per—

Fee	Month
Market Maker CUSIP Fee.	No change in text.
Odd Lot Dealer CUSIP Fee.	No change in text.

Fee	Month
Floor Broker as Principal.	No change in text.

* (minimum clearing support fee is \$600 per month). Discounts

The above Specialist OTC CUSIP Fee will be subject to the following discounts:

If between 20 and 200 trades occur in a particular CUSIP in a given month, the Specialist OTC CUSIP Fee for that CUSIP shall be \$40 for that month.

If less than 20 trades occur in a particular CUSIP in a given month, the Specialist OTC CUSIP Fee for that CUSIP shall be \$20 for that month.

(s) Specialist Credits

Total monthly fees owed by a specialist to the Exchange (excluding rebills) will be reduced (but to no less than zero) by the application of the following transaction credits:

CHX monthly CTA trade volume percentage by stock	Transaction credit (in percent)
<7%	18
7% – 12%	36
>12%	54

"Transaction Credit" means the applicable percentage of monthly CHX tape revenue from the Consolidated Tape Association generated by a particular stock. To the extent that CHX tape revenue is subject to a year end adjustment, specialist credits may be adjusted accordingly.

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 self-regulatory organization 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 purpose of the proposed rule change is to amend the CHX's pricing schedule relating to specialist fees on listed securities. Currently, specialists pay usage-based transaction fees which

are variable, based on "Trade Volume" (the number of executed trades) and "Dollar volume" (the value of executed trades) when acting as principal on the sell side. Specialists also pay certain semi-variable fees (issue registration fees and clearing support fees) which are tiered based upon Trade Volume.² In operating trading floor facilities and providing services to specialists, the Exchange incurs primarily fixed expenses in any given year that is largely independent of Trade Volume. The Exchange's current fee schedule, therefore, causes those specialists that have higher trading volumes to pay a disproportionate portion of the fixed expenses of the Exchange. The revised specialist fee schedule provides a more equitable allocation of the recoupment of the Exchange's fixed expenses by imposing a fixed fee primarily based upon the Consolidated Market Trade Volume in each stock. Further, the revised fee schedule both recognizes the existence of externally-generated revenue as an offset to Exchange fixed expenses and the role of the specialists in obtaining this revenue, by providing a transaction credit to specialists as further described below.

The determination of the fixed fee per stock will be calculated monthly and will be based on the Consolidated Market Trade Volume of each stock. All stocks in which transactions are reported to the consolidated tape will be categorized in one of six tiers monthly, based upon the Consolidated Tape Association ("CTA") Trade Volume (in descending order). These six tiers are described as follows:

Tier Nos.	Tier description
1	1–25 Highest Trade Volume Stocks.
2	26–100.
3	101–250.
4	251–500.
5	501–1000.
6	1001–2700+.

A substantial portion (\$345,000 per month) of the Exchange's fixed costs relating to the provision of service to specialists will be recovered through this fixed fee. The Exchange will assign a percentage of this \$345,000 to each tier and a specialist's monthly fixed fee per stock will then be calculated as follows:

Fixed Fee Per Stock = Total CHX Fixed Fee (\$345,000) × Percent of Fixed Costs

² Under the proposal, specialists in listed securities no longer will pay CUSIP clearing support fees. Telephone conversation between J. Craig Long, Attorney, Foley & Lardner, and George A. Villasana, Attorney, Market Regulation, SEC, on Feb. 4, 1997.

Per Tier \times (CTA Trade Volume Per Stock/CTA Trade Volume Per Tier).
For example, if Stock ABC had 3,000 consolidated market trades and was the

420th most active stock (Tier 4, as described above) in the month, and there were a total of 300,000

Consolidated Market trades in the tier, the specialist's fixed fee would equal:

Total CHX fixed fee		Tier 4 fixed cost percent		Stock ABC CTA volume		Tier 4 CTA volume		Stock ABC fixed monthly fee
\$345,000	\times	13%	\times	(3000	/	300,000)	=	\$448.50

The Exchange will waive the specialist fixed monthly fee described above for a period of two years beginning February 1, 1997 for any stock unassigned to any specialist as of December 1, 1996, that is assigned to a specialist without competition by May 1, 1997.

Specialists' total monthly fees owed to the Exchange will be reduced by the application of certain transaction credits. The transaction credits will be based upon a percentage of the externally-generated CTA tape revenue obtained in each stock.³ This percentage will increase as the level of this externally-generated revenue, that offsets Exchange fixed costs, also increases. These credits, however, may not exceed a specialist's total monthly billing invoice (excluding directly rebilled services).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁴ in general and furthers the objectives of Section 6(b)(4)⁵ in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

³ The applicable transaction credit percentage is applied on a marginal basis to the CHX monthly CTA trade volume percentage by stock. For example, if the CHX monthly CTA trade volume percentage for a particular stock is 15%, the applicable transaction credit rates are 18% for the first 7% of the trade volume, 36% for the next 5% of the trade volume, and 54% for the remaining 3% of the trade volume. Conversation among Lou Klobuchar, Jr., Executive Vice President, CHX, George T. Simon, Foley & Lardner, and Howard L. Kramer, Associate Director, Market Regulation, SEC, Michael Walinskas, Senior Special Counsel, Market Regulation, SEC, and George A. Villasana, Attorney, Market Regulation, SEC, on February 3, 1997.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received 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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and subparagraph (e) of Rule 19b-4 thereunder.⁷

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of The Chicago Stock Exchange.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4.

All submissions should refer to File No. SR-CHX-97-01 and should be submitted by March 5, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-3427 Filed 2-11-97; 8:45 am]

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[Release No. 34-38241; File No. SR-PSE-96-36]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Relating to a Requirement That all Non-Self-Clearing PSE Floor Brokers Maintain Error Accounts

February 5, 1997.

I. Introduction

On October 17, 1996, the Pacific Stock Exchange, Incorporated ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("ACT")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its rules to provide that each non-self clearing floor broker on the Exchange must establish and maintain an error account for carrying positions resulting from errors.

The proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 37903 (October 31, 1996), 61 FR 57507 (November 6, 1996). No comments were received on the proposal. The Exchange filed Amendment No. 1 with the Commission on February 4, 1997.³ This

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 was filed with the Commission on February 4, 1997. The amendment changed the numbering of the proposed rule change from 4.10(c) to 4.21, further explained the Exchange's purpose for the rule change, and explained why the rule change distinguishes