

Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz,
Secretary.

[FR Doc. 04-8323 Filed 4-12-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Whispering Oaks International, Inc., D/b/a BioCurex, Inc.; Order of Suspension of Trading

April 8, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Whispering Oaks International, d/b/a BioCurex, Inc. ("BioCurex"), because of questions regarding the accuracy of assertions by BioCurex and by others, in press releases and e-mails to investors concerning, among other things, (1) a study confirming the effectiveness of its primary product and (2) approval of its main product by the Food and Drug Administration.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 3 p.m. EDT on April 8, 2004 through 11:59 p.m. EDT on April 22, 2004.

By the Commission.

J. Lynn Taylor,
Assistant Secretary.

[FR Doc. 04-8407 Filed 4-8-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49529; File No. SR-CHX-2004-04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule by the Chicago Stock Exchange, Incorporated, To Revise Its Article VI, Rule 5 To Correct a Reference to the Form Used for the Registration of New Branch Offices

April 6, 2004.

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 January 7, 2004, 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 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

This proposal would update the reference to a form used by certain CHX member firms for the registration of new branch offices. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Chicago Stock Exchange Rules Article VI Restrictions and Requirements

* * * * *

Supervision of Members and Member Organizations and Their Branch and Resident Offices

* * * * *

Rule 5. No change to text.

* * * Interpretations and Policies

.01 Registration of new branch offices.—

Outlined below are the steps to be taken when registering new branch offices.

(1) *Each member organization must forward a[A] completed Schedule E to Form BD [MW-B form will be forwarded] to the Exchange.*

(2) Before approval of the branch office is granted, the office manager or the registered representative in charge

must have completed the Exchange requirements for registration.

The office may begin operating as a branch on receipt of written approval from the Exchange.

(3) Firms that are also members of the New York Stock Exchange are not subject to these requirements. However, New York Stock Exchange members will be required to notify the Exchange in writing of any openings and closings of a branch office, along with the name of the office manager.

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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 regarding 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

Under the Exchange's rules, a member firm for which the Exchange is the designated examining authority must notify the Exchange before opening a new branch office.³ The Exchange's rules currently require that a firm provide this notice by completing and submitting a MW-B form.

The Exchange represents, however, that it currently asks its member firms to submit Schedule E to Form BD for that purpose. The proposed rule would correct the reference to the form in its Article VI, Rule 5 and would make other non-substantive changes to the text.

2. Statutory Basis

The CHX 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)(5) of the Act,⁵ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

³ See CHX Rule 5 of Article VI.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁵ 17 CFR 200.30-3(a)(1).

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 inappropriate burden on competition.

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

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 such proposed rule change, as amended, or

B. Institute proceedings to determine whether the proposed rule change, as amended, 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 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-2004-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your 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 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-2004-04 and should be submitted by May 4, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 04-8326 Filed 4-12-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49534; File No. SR-NASD-2004-060]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Regarding the Nasdaq Closing Cross

April 7, 2004.

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 April 5, 2004, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq has designated the proposed rule change as "non-controversial" under Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change 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 proposed rule change would make two amendments to NASD Rule 4709 governing the Nasdaq Closing Cross. Specifically, the proposed rule change would: (1) Change Rule 4709(a)(2) to change the order entry time for Imbalance Only Orders ("IOs")

to start at 3:30 p.m. e.s.t., rather than 9:30 a.m., and (2) amend Rule 4709(b) to change the frequency with which Nasdaq would disseminate the Nasdaq Order Imbalance Indicator ("NOII").

The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

4709. Nasdaq Closing Cross

(a) Definitions. For the purposes of this rule the term:

(1) No Change.

(2) "Imbalance Only Order" or "IO" shall mean an order to buy or sell at a specified price or better that may be executed only during the Nasdaq Closing Cross and only against MOC or LOC orders. IO orders can be entered between [9:30:01 a.m.] *3:30 p.m.* and 3:59:59 p.m., but they cannot be cancelled or modified after 3:50:00 except to increase the number of shares or to increase (decrease) the buy (sell) limit price. IO sell (buy) orders will only execute at or above (below) the 4:00:00

SuperMontage offer (bid). All IO orders must be available for automatic execution.

(3) "Limit On Close Order" or "LOC" shall mean an order to buy or sell at a specified price or better that is to be executed only during the Nasdaq Closing Cross. LOC orders can be entered, cancelled, and corrected between 9:30:01 a.m. and 3:50:00 p.m. [and] *LOC Orders* will execute only at the price determined by the Nasdaq Closing Cross. All LOC orders must be available for automatic execution.

(4) "Market on Close Order" shall mean an order to buy or sell at the market that is to be executed only during the Nasdaq Closing Cross. MOC orders can be entered, cancelled, and corrected between 9:30:01 a.m. and 3:50:00 p.m. [and] *MOC orders* will execute only at the price determined by the Nasdaq Closing Cross. All MOC orders must be available for automatic execution.

(5) No Change.

(6) No Change.

(b) Order Imbalance Indicator.

Beginning at 3:50 p.m., Nasdaq shall disseminate by electronic means an Order Imbalance Indicator every 30 seconds until 3:55, and then *beginning at 3:55*, every 15 seconds until [3:58] *3:59*, and then *beginning at 3:59*, every 5 seconds until [3:59, and then every second until] market close. The Order Imbalance Indicator shall contain the following real time information:

(1)-(4) No Change.

(c) No Change.

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⁶ 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-4(f)(6).