

electronic process to confirm the presence of a new common object identifier (USPS registered OID) for IPP based digital certificates.

### 3.0 AVAILABILITY

IPP is available at an initial level of up to 200 post offices promptly following the execution of the first activation agreement. Market demand for IPP, in conjunction with operational assessments, will determine the expansion schedule beyond initial deployment locations.

Stanley F. Mires,

Chief Counsel, Legislative.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48014; File No. SR-CHX-2003-05]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Execution of Limit Orders for OTC Securities

June 11, 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 April 28, 2003, 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 Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 certain provisions of CHX Article XX, Rule 37(a)(3), which governs, among other things, the execution of limit

orders in a CHX specialist's book. Specifically, the CHX seeks to add a provision that would permit a CHX specialist to enable a functionality that would automatically execute designated limit orders for Nasdaq/NM ("OTC") securities, following dissemination of a locking or crossing quotation in that security by one or more designated OTC market centers. The text of the proposed rule change is below. Proposed new language is in italics. Proposed deletions are in brackets.<sup>6</sup>

#### Chicago Stock Exchange Rules

##### Article XX—Regular Trading Sessions

\* \* \* \* \*

##### Precedence of Bids at Same Price

Rule 16. *Subject to Article XX, Rule 37(b)*, [W]here bids are made at the same price, the priority and precedence shall be determined as follows:

(a) When a bid is clearly established as the first made at a particular price, the maker shall be entitled to priority and shall have precedence over [on] the next sale at that price, up to the number of shares of stock specified in the bid, irrespective of the number of shares of stock specified in such bid.

\* \* \* \* \*

##### Guaranteed Execution System and Midwest Automated Execution System

Rule 37. (a) Guaranteed Executions. The Exchange's Guaranteed Execution System (the BEST System) shall be available, during the Primary Trading Session and the Post Primary Trading Session, to Exchange member firms and, where applicable, to members of a participating exchange who send orders to the Floor through a linkage pursuant to Rule 39 of this Article, in all issues in the specialist system which are traded in the Dual Trading System and NASDAQ/NM Securities. System orders shall be executed pursuant to the following requirements:

1. No change to text.
2. No change to text.
3. [Dual Trading System] *Execution of Agency Limit Orders.*

Subject to Interpretation and Policy .10 ("Exempted Trade-Throughs"), all agency limit orders in Dual Trading System issues will be filled under the following circumstances:

<sup>6</sup> The CHX inadvertently neglected to underscore a word in the proposed rule text when it filed this proposed rule change. With the CHX's permission, the Commission corrected the omission, so that the proposed rule text as printed in this notice accurately reflects the CHX's intentions. May 22, 2003 telephone conversation between Kathleen M. Boege, Associate General Counsel, CHX, and Joseph P. Morra, Special Counsel, Division of Market Regulation, Commission.

(a) Exhaustion of primary market bid or offer. When the bid or offering at the limit price has been exhausted in the primary market (as defined in the CTA plan), agency limit orders will be executed in whole or in part, based on the rules of priority and precedence, on a share for share basis with trades executed at the limit price in the primary market;

(b) Price penetration in primary market. When there has been a price penetration of the limit in the primary market, agency limit orders that have resided in the specialist's book for a period of 0-15 seconds (as designated by the specialist) prior to the primary market print will be filled at the limit price; [and]

(c) Primary market trading at the limit price. When the issue is trading at the limit price on the primary market, agency limit orders will be filled at the limit price unless it can be demonstrated that such orders would not have been executed if they had been transmitted to the primary market or the broker and specialist agree to a specific volume related or other criteria for requiring a fill; and

(d) Block size trade-through in another market. In instances where a block trade on the Exchange or other market against which orders are being protected takes place outside the current Exchange quotation, all effective bids or offers limited to the block price or better will be executed at the more favorable block price rather than at the limit price of the affected orders. A specialist may elect to provide automatic execution of designated limit orders at the block price or better when a "block size" (as defined in Article XX, Rule 40, Interpretation and Policy .05) trade-through is executed on the primary market.

A specialist may elect automatic execution of such agency limit orders on an issue-by-issue basis.

*In the case of Nasdaq/NM securities, a CHX specialist may elect, on an issue-by-issue basis, to engage a functionality that will automatically execute designated resting agency limit orders (or portions of such orders) at the limit price, up to the size of the Limit Order Auto Execution Threshold, when the Designated Market quotation locks or crosses the limit price. For purposes of this provision, (i) "Limit Order Auto Execution Threshold" means an aggregate number of shares designated by the CHX specialist, on an issue-by-issue basis, that may be executed automatically at the limit price; and (ii) "Designated Market" means the market*

<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).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The CHX provided the Commission with written notice of its intent to file the proposed rule change on March 2, 2002. The proposed rule change will become operative on June 1, 2003.

center designated by the CHX specialist, and approved by the Exchange.

\* \* \* \* \*

## 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 its proposal and discussed any comments it received regarding the proposal. 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 CHX proposes to permit a CHX specialist to enable a functionality that would automatically execute designated limit orders for OTC securities, following dissemination of a locking or crossing quotation in that security by one or more designated OTC market centers.

Under existing CHX rules relating to listed securities, limit orders that are resident in the CHX specialist's book are entitled to a fill at the limit price if a price penetration (*i.e.*, a trade-through) or certain other conditions occur in the primary market.<sup>7</sup> Although there is not an analogous trade-through rule in the OTC market, and therefore no analogous limit order protection provisions currently set forth in the CHX rules, certain CHX specialists desire to provide such protections in instances where one or more designated OTC market centers disseminate a quotation that locks or crosses the CHX specialist's quotation.<sup>8</sup>

Accordingly, a subcommittee of the CHX OTC Committee undertook to

<sup>7</sup> See CHX Article XX, Rule 37(a)(3). The limit order would be filled on the CHX at the limit price regardless of whether the CHX specialist was able to obtain recourse via the Intermarket Trading System ("ITS") administrative process following the trade-through.

<sup>8</sup> A designated market's bid (offer) will lock the CHX specialist's quote if it equals the CHX specialist's offer (bid). A designated market's bid (offer) will cross the CHX specialist's quote if it penetrates the CHX specialist's offer (bid). The CHX will consider a designated market to have locked or crossed a CHX specialist's quote each time that it moves from an unlocked/uncrossed state to a locked or crossed state. For example, if a designated market crosses a CHX specialist's offer at 52 with a 53 bid, it will not again cross the CHX's, for purposes of this rule, if the designated market continues to cross the CHX's offer with a bid of 54.

evaluate the issue, and to design a functionality that, if enabled by a CHX specialist, would automatically execute certain resting limit orders for OTC securities. The proposed rule change, which was discussed extensively by the CHX OTC Committee and other member committees, would permit a CHX specialist to enable such a functionality on a voluntary basis. The functionality would automatically execute designated resting limit orders, if the designated OTC markets lock or cross the CHX quotation.<sup>9</sup> The type of orders and the total number of shares to be executed automatically would be designated by the CHX specialist; orders not eligible for automatic execution would remain in the specialist's book and would be eligible for manual execution.<sup>10</sup>

The CHX believes that the proposed rule change will be welcomed by its

<sup>9</sup> Because there is no primary market for over-the-counter securities, the CHX has not simply designated the "primary market" as the market that would trigger limit order protection on the CHX. Instead, this rule would allow CHX specialists to identify the designated market, with the approval of the Exchange, on an issue-by-issue basis. Initially, all CHX specialists have identified the "Designated Market" as the Nasdaq Stock Market. If all CHX specialists make a different or additional designation for all securities traded on the Exchange, the Exchange will notify its order-sending firms of those Exchange-wide changes and file those changes with the Commission as an interpretation of an existing rule pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(1) thereunder. If, however, CHX specialists respond to the fragmentation in the market by identifying different designated markets for different securities, the Exchange will file, pursuant to Rule 19b-4(f)(1), a new interpretation confirming that specialists have identified different designated markets in different securities for purposes of this voluntary designation, but will not list all of those different designations.

<sup>10</sup> In addition to permitting the new functionality described above, the proposed rule change provides for a modification of the CHX rule governing priority of same-priced orders. This modification contemplates that, on an issue-by-issue basis, specialists could designate certain same-priced orders as eligible for automatic execution, while other orders might not be so designated, thus automatically executing some orders out of traditional time-price priority sequence.

For instance, if a specialist designates all limit orders in an issue under 10,000 shares as eligible for possible auto-execution under this rule, those orders of 10,000 shares or more would not be eligible for automatic execution and thus would remain in the specialist's book, eligible for manual execution, even though a smaller order at the same price that was received at a later time would be eligible for automatic execution (up to the size of the Limit Order Auto Execution Threshold).

Because the CHX specialist is not obligated (under CHX rules, the Act or any other governing rules) to execute OTC limit orders based on conditions in other OTC market centers, rendering engagement of this proposed functionality strictly voluntary, the Exchange believes that it is appropriate for a CHX specialist to condition automatic execution in a manner that could, based on issue-by-issue designations of certain types of orders, modify the precedence of same-priced orders.

order-sending firms, as it will provide for protection of certain limit orders on a voluntary basis in the OTC market, which currently does not require that such protections be afforded limit orders. Indeed, the CHX believes that the proposed rule change, which could dramatically increase the number of limit orders executed automatically on the CHX (which currently does not have a rule requiring automatic execution of limit orders for OTC securities based on conditions in other market centers), is to the material benefit of the investing public. The CHX believes that the proposed rule change constitutes a reasoned approach to offering execution guarantees in an evolving OTC market, and anticipates that many of its OTC specialists will elect to enable the functionality contemplated by the proposed rule change.

#### 2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).<sup>11</sup> In particular, the CHX believes the proposal is consistent with section 6(b)(5) of the Act<sup>12</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to, and to perfect the mechanism of, a free and open market and a national market 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

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and
- (iii) Become operative for 30 days from the date on which it was filed, or

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> 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 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, 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 CHX. All submissions should refer to file number SR-CHX-2003-05 and should be submitted by July 8, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48016; File No. SR-GSCC-2002-11]

### Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Reduce the Permitted Use of Letters of Credit to Twenty-Five Percent of a Member's Required Clearing Fund Deposit

June 11, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 10, 2002, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on April 1, 2003, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC is seeking to reduce the permitted use of letters of credit ("LCs") to twenty-five percent of a member's required clearing fund deposit.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

One of GSCC's most important risk management tools is its maintenance of clearing fund collateral. Clearing fund is comprised of cash, certain netting-eligible securities, and eligible LCs. The purposes served by the clearing fund are (1) to have on deposit from each netting

member assets sufficient to satisfy any losses that may be incurred by GSCC as the result of the default by the member and the resultant close-out of that member's settlement positions and (2) to ensure that GSCC has sufficient liquidity at all times to meet its payment and delivery obligations.

The subject of the proposed rule change is the LC component of the clearing fund. Currently, GSCC's rules permit up to 70 percent of a member's required clearing fund deposit to be in the form of LCs. Although GSCC believes that it will always receive funds from the presentment of an LC for payment, GSCC has recognized that in a period of market crisis there is the potential that GSCC might not receive the funds on a timely basis. To ensure that GSCC can always meet its liquidity needs on a timely basis in the unlikely event of a member default and in a period of market crisis, GSCC is proposing to reduce the permitted use of LCs to 25 percent of a member's required clearing fund deposit. Thus, the minimum level of cash and securities required to be maintained on deposit would increase from 30 percent to 75 percent of a member's required clearing fund deposit.<sup>3</sup>

GSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act<sup>4</sup> and the rules and regulations thereunder applicable to GSCC because it will protect GSCC and its members by ensuring that GSCC has adequate liquidity resources.

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

GSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

##### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. GSCC will notify the Commission of any written comments received by GSCC.

<sup>3</sup> The proposed LC requirement will not affect the requirement that certain non-US GSCC members post additional collateral in the form of LCs to protect GSCC against legal risk presented by the insolvency laws in their home countries. These members will not be required to increase the amount of their deposit that is in the form of cash and securities from 30 percent to 75 percent of their required clearing fund deposit.

<sup>4</sup> 15 U.S.C. 78q-1.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified the text of the summaries prepared by GSCC.