Office of Personnel Management.

#### James B. King,

Director.

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# SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35239; File No. SR-CHX-95-2]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Extension of the Waiver of Certain Exchange Transaction Fees for Transactions in Certain Tape B Eligible Issues

January 19, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1955, 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 selfregulatory organization. On January 18, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change, which is also described below.1 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 extend the waiver of certain transaction fees, as set out in Section (c) (Transaction Fee Schedule) of its Membership Dues and Fees, for transactions in Tape B eligible issues.<sup>2</sup> executed through the Midwest Automated Execution System ("MAX"). The Exchange had waived these fees

through December 31, 1994 <sup>3</sup> and now proposes to extend the waiver on MAX executed trades through December 31, 1995. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

(c) Transaction Fee Schedule

Round Lots/Mixed Lots

45 cents per 100 shares. \$100.00 maximum per trade. Odd Lots

35 cents per trade.

\$400.00 maximum monthly fees.

The above fees include all applicable trade recording fees, as set out in the Midwest Clearing Corporation (MCC) "Services and Schedule of Charges" bulletin, relating to floor executed trades.

The above fees shall not apply to transactions in Tape B eligible issues which are executed through the Midwest Automated Execution System ("MAC") through December 31, 199[4]5; however, all applicable trade recording fees relating to Tape B trades will be assessed as set out in the MCC "Services and Schedule of Charges" bulletin.<sup>4</sup>

## 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 continue the Exchange's efforts to attract additional order flow in Tape B eligible securities to enhance the Exchange's competitive position in these issues. Limiting the waiver of fees to MAX trades recognizes the economies of scale and cost savings achieved through electronic order routing versus manually processed trades.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(4) of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and persons using its facilities.

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

The fee change will impose no 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 solicited or received with respect to the fee 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 other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. 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 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements

<sup>&</sup>lt;sup>1</sup> See letter from David T. Rusoff, Counsel, Chicago Stock Exchange, to Glen Barrentine, Senior Counsel, Division of Market Regulations, SEC, dated January 18, 1995. See infra note 4 for a description of Amendment No. 1.

<sup>&</sup>lt;sup>2</sup> The Consolidated Tape, operated by the Consolidated Tape Association ("CTA"), compiles current last sale reports in certain listed securities from all exchanges and market makers trading such securities and disseminates these reports to vendors on a consolidated basis. The CTA is comprised of the New York, American, Boston, Cincinnati, Chicago, Pacific, and Philadelphia Stock Exchanges as well as the Chicago Board Options Exchange and the National Association of Securities Dealers, Inc. Transactions in American Stock Exchange listed stocks and qualifying regional listed stocks are reported on CTA Tape B.

<sup>&</sup>lt;sup>3</sup> See Securities Exchange Act Release No. 33637 (Feb. 17, 1994), 59 FR 9261 (approving File No. SR-CHX-94-4). The Exchange has waived these fees for several consecutive years. See Securities Exchange Act Release No. 31636 (Dec. 22, 1992), 57 FR 62406 (approving File No. SR-MSE-92-15); Securities Exchange Act Release No. 30154 (Jan. 6, 1992), 57 FR 1291 (approving File No. SR-MSE-91-17); Securities Exchange Act Release No. 28916 (Feb. 25, 1991), 56 FR 9028 (approving File No. SR-MSE-91-7).

<sup>&</sup>lt;sup>4</sup> Amendment No. 1 deleted a reference in the Transaction Fee Schedule that limited the applicability of such fees on round lots/mixed lots and odd lots to transactions in New York Stock Exchange listed issues. This reference was included inadvertently in the Exchange's filings requesting the waiver of these fees for calendar years 1992, 1993, and 1994.