

violations as minor rule violations and requests that it be relieved of the current reporting requirement of Rule 19d-1(c)(1) under the Act regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.<sup>5</sup> The Plan, however, would not cover any fine imposed pursuant to the Procedure that is contested. Such violations and fines would continue to be reported as they occur.

Initially, the Exchange is proposing to include the following rule and policy violations in both its Procedure and Plan: (1) Acquisition of membership by general or limited partner (Article II, Rule 1); (2) general partners bound by rules of Exchange (Article II, Rule 4); (3) notice of death or retirement of partner (Article II, Rule 9); (4) filing and approval of Articles of Incorporation (Article III, Rule 4); (5) authorization of officers to act (Article III, Rule 5); (6) officers, directors and principal stockholders (Article III, Rule 6); (7) death or retirement of registrant member (Article III, Rule 11); (8) transactions off the floor (Article VIII, Rule 9); (9) records of orders transmitted (Article IX, Rule 7); (10) dealing in stocks on put, call, straddle or option (Article IX, Rule 15); (11) record of margin calls and receipt of margin (Article X, Rule 2); (12) record of orders (Article XX, Rule 24); (13) specialist's book (Article XXX, Rule 4); (14) written reports of transactions (Article XXX, Rule 5); (15) record of orders (Article XXX, Rule 11); (16) financial operational reports (Article XI, Rule 4); (17) notification of change in bond coverage (Article XI, Rule 6); (18) filing requirements on change of examining authority (Article XI, Rule 7); (19) submission of books to board (Article VIII, Rule 11); (20) submission of evaluation of co-specialists survey (Article VIII, Rule 11); (21) failure to issue ITS pre-opening notification (Article XX, Rule 39); (22) failure to comply with ITS trade-through, locked markets and block trade rules (Article XX, Rule 40); (23) failure to comply with stop order rule (Article XXX, Rule 22); (24) failure to comply with 50 percent requirement (Article XXXIV, Rule 3); (25) failure to comply with trading from off the floor rule (Article XXXIV, Rule 4); (26) failure to comply with public outcry rule (Article XXXIV, Rule 10); (27) violation of Class A decorum rules (Article II, Rule 3,

Interpretation and Policy .01); (28) violation of Class B decorum rules (Article XII, Rule 3, Interpretation and Policy .01); (29) failure to comply with recognized quotations (Article XX, Rule 7); (30) failure to clear the post (Article XX, Rule 10); (31) failure to comply with cabinet securities provision (Article XX, Rule 11); (32) failure to comply with minimum fractional changes Article XX, Rule 22); (33) failure to comply with agency cross rule (Article XX, Rule 23); (34) failure to comply with "stopped" order rule (Article XX, Rule 28); (35) improper use of "SOLD" designator (Article VIII, Rule 7); (36) trading ahead of customer orders (Article XXX, Rule 2); (37) violation of preference solely on competitive basis rule (Article XXX, Rule 3).

The purpose of the Procedure is to provide a more appropriate response to certain rule violations. At the present time, when the staff of the CHX discovers a technical, inadvertent, or otherwise minor rule violation, often, the Exchange's only practical response is to issue a written letter of caution to the person(s) involved focusing attention on the necessity of fully complying with all Exchange rules and policies and warning against future violations. Such written admonitions, however, may not always successfully deter future violations. The other alternative, the initiation of a formal disciplinary proceeding may, in many cases, be too time consuming, too costly, and carry too severe a penalty for such minor violations. The ability to impose a fine on a discretionary basis may constitute a more effective deterrent than a cautionary letter while avoiding the severe penalty or attendant publicity of a disciplinary hearing. The Procedure provides for an appropriate response to minor rule violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures.

The purpose of the Plan is to provide the CHX with the flexibility to fashion reporting requirements that would result in the Commission receiving the necessary information regarding minor rule violations in the least burdensome way possible.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>6</sup> and will advance the objectives of Section 6(b)(6) of the Act<sup>7</sup> in that it will provide a procedure whereby members can be "appropriately disciplined" in those instances when a rule violation is

minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. In accordance with Sections 6(b)(7) and 6(d)(1) of the Act,<sup>8</sup> the proposed rule change provides a fair procedure for imposing such sanctions. Finally, the proposed plan is consistent with Section 6(d)(1) of the Act and Rule 19d-1(c)(2) thereunder, which authorizes self-regulatory organizations to adopt minor rule violation reporting plans.

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

The Exchange does not believe that the proposed rule change will impose a 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 the proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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

<sup>5</sup> The Exchange's quarterly report to the SEC will include: the CHX's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the fine imposed, the number of times the rule violation has occurred, and the date of disposition.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(6).

<sup>8</sup> 15 U.S.C. 78f(b)(7) and (d)(1).