

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56704; File No. SR-CHX-2007-20)

October 25, 2007

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Permitting Certain Transactions to Have Post-Trade Anonymity

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 October 16, 2007, the Chicago Stock Exchange, Inc. (“CHX” or “Exchange”) 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 substantially by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it 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 Exchange proposes to amend its rules to allow participants to request post-trade anonymity with respect to certain transactions executed on the Exchange. The text of the proposed rule change is available at [www.chx.com](http://www.chx.com), at the Exchange, and the Commission’s Public Reference Room.

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<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).

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

In its filing with the Commission, CHX included statements concerning the purpose of and basis for the proposed rule change 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. 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

Currently, when a trade occurs on the Exchange, a report is sent to the parties to the trade, or to the participant that submitted the trade on behalf of its customer, confirming details about the transaction, such as the number of shares executed, the price of the execution, and the identities of the parties to the trade. Similar information about the trade is sent to the National Securities Clearing Corporation ("NSCC") for clearing purposes.

Through this proposal, CHX's participants would be allowed to request that their identities be kept confidential on trade and clearing reports associated with single-sided executions, except when necessary for regulatory and other identified purposes.<sup>5</sup> CHX would reveal the identity of a participant or the participant's clearing firm: (1) for regulatory purposes or to comply with an order of a court or arbitrator; (2) if the NSCC ceases to act for a participant

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<sup>5</sup> See Proposed Article 21, Rule 5(a) and (b). The CHX's trade reporting functionality would be designed to keep confidential the identity of any party to a trade that requests anonymity, but to reveal the identities of other parties to the trade. The clearing functionality, on the other hand, would initially be designed such that, if any party to a transaction requests anonymity, the entire transaction would be considered anonymous. If later changes in the clearing technology permit a more refined outcome, CHX represents that it likely would seek to modify this functionality to mirror the trade reporting design described above.

or a participant's clearing firm and NSCC determines not to guarantee the settlement of a participant's trades; or (3) if both parties to the trade consent.<sup>6</sup>

The Exchange proposes that these anonymity rules apply to all trades executed on the Exchange except the execution of cross orders.<sup>7</sup> The Exchange believes that it would be difficult to provide anonymity protection to cross orders and still provide the participant submitting the order with a sufficiently detailed trade or clearing report to permit it to effectively service its customers' needs.

Under the proposed rule, the Exchange would reveal to a participant, no later than the end of the day on the date an anonymous trade was executed, when that participant has submitted an order that has executed against an order submitted by that same participant.<sup>8</sup> In addition, because CHX's participants would not be able to retain information about the contra parties to anonymous transactions, CHX would keep that information in its original electronic form for the time periods required by the Commission's broker-dealer record-keeping rules.<sup>9</sup>

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<sup>6</sup> While the Exchange would keep contra party information confidential for an anonymous trade that was being reviewed through the initial stages of the Exchange's clearly erroneous or systems disruption trade review process, the Exchange would reveal that information upon any request for an appeal from the Exchange's decision on those matters and would make that information available to any participant that seeks to arbitrate a dispute relating to an otherwise anonymous trade. The Exchange believes that it is appropriate to reveal contra party information in these and other similar circumstances pursuant to the proposed "regulatory purposes" exception to the anonymity rule. See Proposed Article 21, Rule 5(b).

<sup>7</sup> See Proposed Article 21, Rule 5(e).

<sup>8</sup> See Proposed Article 21, Rule 5(c).

<sup>9</sup> See Proposed Article 21, Rule 5(d). The Exchange intends to separately seek no-action relief, on behalf of its participants, relating to participants' record-keeping obligations in connection with the anonymous trades. In addition, the Exchange would seek exemptive relief, on behalf of its participants, from certain requirements of Rule 10b-10(a) under the Act. The Exchange will not begin using the post-trade anonymity features until necessary exemptive and no-action relief have been granted.

The trade reports that NSCC receives from CHX for anonymous trades would contain the identities of the parties to the trade to enable NSCC to conduct its risk management functions, but would contain an indicator noting that the trade was anonymous. NSCC reports issued to CHX participants with respect to these anonymous trades would substitute “ANON” for the acronym of the contra party. This handling of the data is designed to allow NSCC to conduct its risk management functions and to settle anonymous trades. If NSCC ceases to act for a member which is the unidentified contra side of any trades received from CHX, the Exchange would have the responsibility to identify to its participants the trades which are with the affected participant.

The Exchange believes that post-trade anonymity would benefit investors because preserving anonymity through settlement limits the potential impact that a participant’s identity may have on the trading strategies used, and assumptions made, by other market participants. Other exchanges have implemented similar rule provisions.<sup>10</sup>

The Exchange plans to implement this proposal in two stages – first offering anonymous trade reports and, when all changes have been made to CHX and NSCC systems, allowing that anonymity to continue through the clearing and settlement process. The Exchange anticipates that the anonymous trade reports would be available on or before November 15, 2007, and that the anonymous clearing reports would be available in late 2007 or during the first quarter of 2008.<sup>11</sup>

## 2. Statutory Basis

CHX stated its belief that 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

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<sup>10</sup> See e.g., NYSE Arca Equities Rule 7.41 and International Securities Exchange Rule 2117.

<sup>11</sup> See note 9, *supra* (noting that the Exchange will seek no-action and exemptive relief before implementing its proposed anonymous trade functionality).

particular, with the requirements of Section 6(b) of the Act.<sup>12</sup> The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>13</sup> because it would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest by permitting the Exchange to provide to its participants the same option as they would have on other exchanges<sup>14</sup> to request that their identities be kept confidential on trade and clearing reports.

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

The Exchange does not believe that the proposed rule change will impose any 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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6)<sup>16</sup> thereunder because the proposal does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was

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

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See e.g., NYSE Arca Equities Rule 7.41 and International Securities Exchange Rule 2117.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>17</sup>

Normally, a proposed rule change filed under Rule 19(b)-4(f)(6) may not become operative prior to 30 days after the date of filing.<sup>18</sup> However, Rule 19b-4(f)(6)(iii) under the Act<sup>19</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it has previously considered substantially similar rule changes providing post-trade anonymity,<sup>20</sup> and CHX's proposed rule change does not raise any new regulatory issues. Accordingly, the Commission designates the proposed rule change to be effective and operative immediately upon filing with the Commission.<sup>21</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

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<sup>17</sup> In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. See 17 CFR 240.19b-4(f)(6)(iii). The Commission notes that CHX has satisfied the five-day pre-filing requirement.

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>20</sup> See Securities Exchange Act Release Nos. 49786 (May 28, 2004), 69 FR 32087 (June 8, 2004) (SR-PCX-2004-40) and 54528 (September 28, 2006), 71 FR 58650 (October 4, 2006) (SR-ISE-2006-48).

<sup>21</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>22</sup>

#### 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. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CHX-2007-20 on the subject line.

##### Paper comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CHX-2007-20. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street,

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<sup>22</sup> 15 U.S.C. 78s(b)(3)(C).

NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CHX-2007-20 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

Nancy M. Morris  
Secretary

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<sup>23</sup> 17 CFR 200.30-3(a)(12).