

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60083; File No. SR-CHX-2009-02)

June 10, 2009

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to the Rejection of Undisplayed Odd-lot Orders From the Exchange's Matching System

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 June 2, 2009, the Chicago Stock Exchange, Inc. ("CHX" or the "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 CHX. 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 CHX proposes to amend its rules to allow Exchange customers to specify whether odd-lot orders and unexecuted odd-lot remainders, that are not able to be immediately displayed, should remain in, or be rejected from, the Exchange's Matching System. Additionally, the Exchange proposes to add a generic routing rule to clarify how any orders that are rejected from the Exchange's Matching System, and routed away according to Participant instructions, will be handled.³ The text of this proposed rule change is available on the Exchange's Web site at www.chx.com and in the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange notes that while this rule is currently being added to clarify how undisplayed odd-lots that are rejected from the Matching System will be routed, the rule will apply to any orders that are rejected from the Matching System and routed according to Participant instructions.

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 on 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

The Exchange proposes to amend CHX Article 20, Rule 8 to allow Exchange Participants to specify whether odd-lot orders and unexecuted odd-lot remainders, that are not able to be immediately displayed, should remain in, or be rejected from, the Exchange's Matching System. Additionally, the Exchange proposes to add a generic routing rule to clarify how any orders that are rejected from the Exchange's Matching System, and routed away according to Participant instructions, will be handled.

Currently, odd-lot orders and unexecuted odd-lot remainders that are not able to be immediately displayed, because they are at a better price than the current CHX quote and have no other orders with which to aggregate, remain in the Exchange's Matching System until they are executed, are aggregated with another order and displayed⁴ or are cancelled. The proposed rule change would allow Exchange Participants to specify whether such orders should remain in, or be rejected from, the Exchange's Matching System. This preference could be set by the

⁴ The Exchange notes that odd-lot orders are aggregated with other odd-lot and mixed lot orders where possible to form round lots. Additionally, odd-lot orders are considered displayed when there are other round-lot orders at the same price point which are being displayed.

Participant on both a default and order by order basis.⁵ Orders remaining in the Matching System will continue to be ranked at the price and time at which they were originally received. Orders that are rejected from the Matching System shall either be sent back to the order sender or be routed to another destination according to each Participant's instructions⁶ or, if designated "do not route," automatically cancelled. The Exchange also proposes that Participants that elect to have orders routed to another destination pursuant to this rule, or pursuant to Article 20, Rule 5 ("Prevention of Trade-throughs"), agree to be bound by such transactions.

Exchange Participants have requested this functionality to improve the certainty of order execution. For example, if a Participant enters a limit order to buy four hundred (400) shares into the Matching System and that order matches with an order to sell three hundred fifty (350) shares at the same price, the system would execute three hundred fifty shares leaving fifty (50) shares as an unexecuted odd-lot remainder. Currently, if there were no other round-lot orders at the same price, these shares would remain undisplayed in the Matching System; reducing the likelihood that the Participant would receive a timely execution on the remaining shares.⁷ Under the proposed rule change, the Participant would be able to specify that such orders be rejected from the Matching System and either cancelled or routed to another destination with which they have an agreement.

⁵ This system functionality already exists and can be put into production once the necessary rule change is approved.

⁶ The Exchange notes that orders rejected in accordance with this rule will be routed in the same manner as those rejected under the NMS trade-through validation rule (Exchange Article 20, Rule 5, Interpretations and Policies .03), which has already been approved by the Commission.

⁷ This also assumes that there are no other odd-lots at the same price with which the odd-lot could aggregate to form a round lot. See footnote 4, *supra*.

This proposed rule change is consistent with Regulation NMS because it applies only to odd-lot orders and unexecuted odd-lot remainders. Only round-lot orders are subject to the requirements of Regulation NMS in that only round-lot orders must be included in the Exchange's automated quote.⁸ In contrast, odd-lot orders are not displayed, and the prohibitions against both locked and crossed markets and trade-throughs do not apply to odd-lots. Exchanges are permitted to establish their own rules for handling odd-lot orders and the odd-lot portions of mixed-lot orders.⁹

The Exchange also proposes to add a generic routing rule to clarify how any orders that are rejected from the Exchange's Matching System, and routed away according to Participant instructions, will be handled. The use of routing services is optional and is available only to exchange Participants.

In such cases, the Participant will be responsible for ensuring that it has a relationship with its chosen destinations to permit the requested access. The Exchange shall not have responsibility for the handling of the order by the other destination, but will report any execution or cancellation of the order by the other destination to the Participant that submitted the order, will notify the other venue of any cancellations or changes to the order submitted by the order-sending Participant and, if requested by the Participant and its chosen destination, will flip any

⁸ Under Regulation NMS, Rule 600(b)(8) defines "bid" or "offer" as the bid price or offer price for one or more round lots of an NMS security. This definition is embedded in the definition of "quotation" in Rule 600(b)(62), as well as the definition of "protected bid" or "protected offer" in Rule 600(b)(57). 17 CFR 242.600(b)

⁹ See Response No. 7.03 in "Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS," Division of Trading and Markets, dated June 8, 2007.

executions into the Participants account, as necessary, and report that second leg of the away-market transaction to clearing.¹⁰

The Exchange will provide its Routing Services pursuant to the proposed rule and three separate agreements, to the extent that they are applicable to a specific routing decision and deemed necessary by the Exchange and/or a third-party broker-dealer providing connectivity to other markets: (a) an agreement between the Exchange and each Participant on whose behalf orders will be routed (“Participant-Exchange Agreement”); (b) an agreement between each Participant and a specified third-party broker-dealer that will use its routing connectivity to other markets and, if necessary, serve as a “give-up” in those markets (“Give-Up Agreement”); and (c) an agreement between the Exchange and the specified third-party broker-dealer (“Routing Connectivity Agreement”) pursuant to which the third-party broker-dealer agrees to provide routing connectivity to other markets and serve as a “give-up” for the Exchange’s Participants in other markets. The Routing Connectivity Agreement will include terms and conditions that enable the Exchange to comply with this rule.

The Exchange will provide such Routing Services in compliance with its rules and with the provisions of the Act and the rules thereunder, including, but not limited to, the requirements

¹⁰ For example, if the Exchange routes a participant’s buy order to the participant’s chosen destination (Router ABC) and Router ABC gets an execution of that order in another market against market maker XYZ, the first leg of the transaction (ABC buying from XYZ) will be reported to clearing by the other market. The Router ABC would send an execution report back to the Exchange (for routing to the original order-sending participant). Under this proposal, if the participant and Router ABC had requested, the Exchange would take the execution report and create a clearing-only record, flipping the execution from Router ABC’s account to the account of the order-sending participant (ABC selling to the order-sending participant).

of Sections 6(b)(4)¹¹ and (5)¹² of the Act that the rules of a national securities exchange provide for the equitable allocation of dues, fees and other charges among its members and issues and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,¹³ and furthers the objectives of Section 6(b)(5) in particular,¹⁴ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest. In this case, providing Participants the ability to have their undisplayed orders rejected from the Exchange's Matching System, to be cancelled or routed elsewhere for execution, protects investors and removes an impediment to a free and open market in that it improves the certainty of order execution.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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.

¹¹ 15 U.S.C. 78f(b)(4)

¹² 15 U.S.C. 78f(b)(5)

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

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, 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, 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. Please include File Number SR-CHX-2009-02 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-CHX-2009-02. 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2009-02 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).