

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54657; File No. SR-CHX-2006-29)

October 26, 2006

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Participant Fees and Credits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 29, 2006, 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, II, and III below, which Items have been prepared by the CHX. On October 20, 2006, the CHX filed Amendment No. 1 to the proposed rule change.³ The CHX has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the CHX under Section 19(b)(3)(A)(ii) of the Act,⁴ and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 made technical changes to correct the marking of the proposed rule text and made clarifying changes to the discussion in the purpose section. Amendment No. 1 made no changes to the proposed fees as set forth in the original filing.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

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

The CHX proposes to revise its Schedule of Participant Fees and Credits ("Fee Schedule") to provide for fees, charges and credits contemplated by the Exchange's new trading model being implemented by the CHX this fall. The text of the proposed rule change is available on the CHX's Web site (http://www.chx.com/rules/proposed_rules.htm), at the principal office of the CHX, and at the Commission's Public Reference Room.

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

Throughout 2006, the Exchange has been working on the design and development of a new trading model centered around a core matching system that will provide for fully automated electronic matching of orders ("Matching System"), as well as corresponding rules and regulatory initiatives. On September 29, 2006, the Exchange's proposed rules relating to the new trading model were approved by the Commission.⁶ The Exchange anticipates making the transition to its new trading model commencing the week of October 23, 2006. As further

⁶ See Securities Exchange Act Release No. 54550 (September 29, 2006); 71 FR 59563 (October 10, 2006) (SR-CHX-2006-05) (referred to as the "NTM Approval Order").

detailed in SR-CHX-2006-05, the Exchange's new trading model differs from the current CHX structure in several notable ways. First, the CHX will no longer operate from a traditional physical exchange floor, but rather will operate an entirely electronic facility. Second, the CHX will no longer maintain a specialist program, in which specialists maintain books of orders in designated issues.⁷ Finally, as noted above, orders will be matched by a fully automated Matching System.⁸

This fundamental shift in the Exchange's trading model necessitates certain changes in the Exchange's business model, including the fees, charges and credits that it assesses its participants ("Participants"). After significant deliberation, including a comprehensive review of other self-regulatory organizations and their respective billing structures, the Exchange has formulated a revised Fee Schedule that the Exchange believes more closely resembles the fee structures that have been implemented in connection with other electronic trading facilities.

Summarized below are the provisions of the Fee Schedule that will change from the previous version. To facilitate an orderly transition to the new trading model, the Fee Schedule contemplates charging Participants under current rates, with new Fee Schedule provisions to become applicable as issues are transitioned to the new trading model and become eligible for

⁷ In the new trading model, Participants may register as either market makers or institutional brokers (formerly known as floor brokers), or may simply operate as unregistered order-sending firms that route orders to the CHX for execution.

⁸ The CHX new trading model does contemplate special handling of orders by CHX institutional brokers, but all such orders must be entered by institutional brokers into an electronic functionality known as Brokerplex. Brokered orders must clear the Matching System prior to execution and must otherwise be executed in accordance with the rules set forth in new CHX Article 17, which governs institutional brokers, as well as applicable law, including Regulation NMS.

trading in the Matching System. The Fee Schedule delineates which fees will be “phased out” during and after the transition to the new trading model.

Participant Access & Registration (Sections A-D)

- Permit Fees: In connection with the Exchange’s demutualization on February 9, 2005, the Exchange’s rules were amended to require that each Participant hold at least one Trading Permit in order to access the CHX.⁹ The Exchange’s Fee Schedule was amended to provide for annual Trading Permit fees in lieu of annual member dues; the amount of the Trading Permit Annual Fee (\$6,000) was identical to the amount of member dues immediately prior to demutualization. Trading Permit fees have not increased for nearly two years, since the demutualization transaction.

Pursuant to a recent proposed rule change (the “Trading Permit Rule Changes”), each Participant Firm will be required to hold only one Trading Permit per firm, regardless of the number of its registered representatives.¹⁰ These rule changes reflect the Exchange’s transition from a floor-based exchange (where it was appropriate to require multiple Trading Permits if a Participant Firm had multiple representatives on the CHX floor) to an electronic facility (where all Participant Firms have equivalent electronic access to the Exchange’s facilities).

⁹ See Securities Exchange Act Release No. 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR-CHX-2004-26). Prior to demutualization, the Exchange’s rules provided for access by “members” who owned or leased CHX “seats.” The demutualization rule changes provide for access by “Participants” who hold “trading permits.”

¹⁰ See Securities Exchange Act Release No. 54494 (September 25, 2006); 71 FR 58023 (October 2, 2006) (SR-CHX-2006-23). The Exchange believes that the Trading Permit Rule Changes will provide for an even more equitable allocation of fees among Exchange Participants, because no firm will be required to bear a disproportionate share of total Trading Permit fees by holding multiple Trading Permits. Instead, each Participant’s Trading Permit fee will be identical, because each Participant will only hold one Trading Permit.

The revised proposed Fee Schedule provides that the annual fee for each Trading Permit will increase from \$6,000 to \$7,200 for each Trading Permit purchased or renewed after October 1, 2006. The Trading Permit cancellation fee will increase to the lesser of \$2,400 or \$600 per month for the remainder of the one-year term of the permit, effective with the renewal of each Trading Permit after October 1, 2006.¹¹

The CHX believes that these changes to the Trading Permit fee structure are reasonable under the circumstances. The Trading Permit Annual Fee has not increased for some time, warranting a modest increase. Moreover, the Trading Permit Rule Changes will result in aggregate savings to CHX Participants.¹²

With respect to the Trading Permit cancellation fee, as set forth in previous proposed rule changes relating to charges for cancellation of Trading Permits,¹³ the CHX believes that it is reasonable to provide for some fee relief for Participants whose trading permits are cancelled intrayear. The Exchange also believes, however, that it is necessary for the Exchange to have an adequate basis on which to budget and project annual revenues. Accordingly, the Exchange believes that a Trading Permit cancellation fee, including a modest increase thereof, remains appropriate.

¹¹ See Section A of the Fee Schedule.

¹² Although not all CHX Participant firms will realize savings due to a reduction in the number of Trading Permits, total Trading Permit fees will be reduced substantially. In order to offset a portion of this aggregate reduction, the Exchange believes that the proposed modest increase in annual Trading Permit fees is appropriate.

¹³ See Securities Exchange Act Release No. 52815 (November 21, 2005), 70 FR 71572 (November 29, 2005) (SR-CHX 2005-31); Securities Exchange Act Release No. 54495 (September 25, 2006), 71 FR 58025 (October 2, 2006) (SR-CHX-2006-27) (providing for a cancellation fee in the event a Trading Permit is cancelled intrayear).

- SRO Fee: This fee will increase from \$100/month to \$250/month. This fee will be assessed per Trading Permit.¹⁴ As set forth above with respect to Trading Permit fees, this slight increase in the per permit fee is offset by the aggregate savings that will be achieved by CHX Participants due to the new “one firm, one permit” rule made effective by the Trading Permit Rule Changes.

- Registration Fees: The CHX will continue to assess a \$500 annual fee for each trader who is engaged in proprietary securities trading for an off-Exchange Participant Firm that is solely a CHX Participant and for which the CHX is the Designated Examining Authority (“DEA”).¹⁵ This fee will be pro-rated in the first year of a trader’s registration, based on the quarter in which that registration occurs.¹⁶

Other changes to Section C of the Fee Schedule reflect the transition away from a floor-based trading environment, with references to the floor modified to reflect access to the Exchange’s facilities. The fee for floor clerks has also been eliminated.

- Matching System Port Charges: The revised proposed Fee Schedule provides for a port charge of \$400 per month for each Participant connection to the Matching System, other than connections through the Brokerplex functionality that is used by CHX institutional

¹⁴ See Section B of the Fee Schedule.

¹⁵ See Section C of the Fee Schedule.

¹⁶ This provision formerly provided for a \$500 initial registration fee and \$500 annual fee (with no proration for partial years) for each off-floor trader who was engaged in proprietary securities trading for a Participant Firm for which the CHX is the DEA. Given the elimination of the \$500 initial registration fee and the addition of the proration language, the changes to this provision will result in net savings by affected Participant Firms.

brokers.¹⁷ This fee is a new addition to the Fee Schedule and reflects the Exchange's transition to a fully-electronic trading platform instead of a floor-based market. The Exchange believes that, in the new trading model, the port charge provides a reasonable means of allocating a portion of Matching System expenses to those Participant Firms that maintain connectivity to the Matching System.¹⁸

Transaction and Order Routing Fees (Section E)

Transaction fees will be modified in several ways as the Exchange transitions to its new trading model.¹⁹

- **Matching System:** Section E of the Fee Schedule sets forth the transaction fees that will be charged for executions in the Matching System once it is operative, including Matching System routing fees. This section also contains an odd-lot Matching System transaction fee, which is charged to the Participant that submits the odd-lot order to the Matching System. The Exchange believes that the new transaction fees for the Matching System are fair and reasonable, particularly in light of the fee structures implemented in connection with other electronic facilities. The Exchange believes that the "take/provide" model has become a widely-recognized industry model, and the Exchange's rates are in line with other similarly-situated market centers.

¹⁷ See Section D of the Fee Schedule. Section D formerly contained provisions relating to assignment of issues to CHX specialists. This process will no longer occur because all specialist issues are being migrated to the new trading model. Accordingly, all former text of Section D has been deleted in its entirety.

¹⁸ The former Fee Schedule allocated a portion of these costs by means of various MAX-related connectivity charges, which will be eliminated for issues as they migrate from MAX (the Exchange's current semi-automated execution platform) to the new trading model.

¹⁹ See Section E of the Fee Schedule.

To facilitate an orderly transition, Section E.7 of the Fee Schedule preserves the pre- new trading model fee structure, which will continue to provide the basis for transaction and order processing fees if an issue is not yet traded in the Matching System, but will no longer be applicable once an issue transitions to the new trading model and is available for trading in the Matching System. Section E.7 of the Fee Schedule also contains a new provision establishing a charge for outbound ITS or NMS Linkage Plan orders.²⁰

- Institutional Broker Agency Fees: Section E.3 of the Fee Schedule outlines the fees that will be charged to the Participant Firm that executes an order through an institutional broker, if the broker facilitates the execution of the order on the Exchange or in another market over ITS or any later linkage plan. These fees have not changed from the fees set forth in Section F.4(e) and (f) of the previous Fee Schedule; only their location within the Fee Schedule has changed.²¹

²⁰ This provision is necessary in order to implement the CHX's participation in the exchange-to-exchange billing arrangement associated with the "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934" ("Linkage Plan"), which took effect on October 1, 2006. See Securities Exchange Act Release No. 54548 (September 29, 2008), 71 FR 59159 (October 6, 2006) (SR-CHX-2006-28) (approving Linkage Plan exchange-to-exchange billing procedures); Securities Exchange Act Release No. 54551 (September, 2006), 71 FR 59148 (October 6, 2006) (approving Linkage Plan). When an outbound Linkage Plan commitment is executed on another Linkage Participant market, such market will directly invoice the CHX for a transaction fee equal to the transaction fee that it would charge its own member for such an execution. The CHX is then responsible for payment of such invoice. The new CHX Fee Schedule provision permits the CHX to collect a corresponding fee from the Participant who generated the outbound Linkage Plan commitment.

²¹ Reference to "floor" broker also has changed to "institutional" broker.

Credits (Section F)

The Exchange's credit structure has been revised to adjust for the new trading model as well as Regulation NMS, which impacts allocation and payment of market data fees.²²

- **Institutional Brokers:** In lieu of the previous formula used for floor broker credits, which incorporated significant variables including market data fees, each institutional broker will be eligible for a monthly transaction fee credit equal to 18% of the transaction fees received by the Exchange each month for agency trades executed through the institutional broker.²³

- **Specialist Credits:** These credits will continue to be available to specialists in issues that they trade as specialist during the transition to the new trading model.²⁴ As an issue moves into the Matching System for trading, specialist credits will be pro-rated or eliminated for that issue, based on the date that the issue becomes eligible for trading in the Matching System. Specialists (or other eligible Participants) who elect to register as market makers in the new trading model may then earn market data rebates for liquidity-providing trades or crosses submitted to the Matching System.

- **Market Data Rebates for Matching System Trades:** Each Participant Firm²⁵ will be eligible for a tape credit, applied on a quarterly basis, equal to 50% of monthly tape revenue from the Consolidated Tape Association (less all direct CTA costs) generated by liquidity-providing trades or crosses submitted to the Matching System by a Participant Firm in a

²² See Section F of the Fee Schedule.

²³ This new institutional broker credit replaces the former floor broker credit provision set forth in Section M.2 of the previous Fee Schedule.

²⁴ Formerly set forth in Section M.1, the specialist credit provisions are unchanged and will remain in place until an issue migrates to the new trading model.

²⁵ Institutional brokers are not eligible to receive tape credits; they are instead eligible for the transaction fee credits previously described.

particular Tape A or Tape B security. By its terms, this credit is not available unless an issue has migrated to the Matching System.

The terms of this credit are identical to the terms of the Specialist Credit discussed above. However, the CHX has added a provision indicating that tape credits will be applied on a quarterly basis, after the Exchange receives its payments from the reporting plans.²⁶ The identical nature of the credits is intentional. As set forth above, the Specialist Credit is available until an issue migrates to the CHX Matching System, at which point Specialist Credits will no longer be available,²⁷ but the former specialist (or another eligible Participant) may receive a Market Data Rebate in lieu of the Specialist Credit, on account of liquidity-providing trades or crosses submitted to the Matching System.

- Other Credit Provisions: Section F.4 of the Fee Schedule, relating to Two-Sided Quote Providers, remains unchanged but has been relocated from former Section M.4. Section F.5 of the Fee Schedule, governing unavailability of credits if a Participant's payment to the Exchange is more than 60 days past due, also is unchanged from the version that became effective shortly before this Fee Schedule was submitted.²⁸

Co-location Fees (Section G)

These provisions have not changed; they merely have been relocated from former Section H to current Section G of the Fee Schedule.

²⁶ The Exchange has also added a provision indicating that the tape credit will be based on the tape revenue generated by liquidity-providing trades or Crosses submitted to the Matching System by the Participant Firm. (emphasis added). Telephone conversation between Kathleen Boege, Vice President and Associate General Counsel, CHX, Joseph Morra, Special Counsel, Division of Market Regulation ("Division"), Commission, and Sara Gillis, Attorney, Division, Commission, on October 24, 2006.

²⁷ There will no longer be a specialist assigned to such issue.

²⁸ See Securities Exchange Act Release No. 54522 (September 27, 2006), 71 FR 58456 (October 3, 2006) (SR-CHX-2006-26).

Clearing Support Fees (Section H)

There are no changes to this section, which formerly was Section I of the Fee Schedule, except that the Exchange is deleting provisions relating to CUSIP fees.

Listing Fees (Section I)

There are no substantive changes to this section, which formerly was Section J.

Market Regulation and Market Surveillance Fees (Section J)

There are no changes to this section, which formerly was Section K of the Fee Schedule, except that the provision relating to DEA Examination Fees has been modified to delete a footnote relating to exemptions and to clarify that the charge is assessed per Participant Firm.

Specialist Fixed Fees (Section K)

These provisions have not changed with respect to calculation of the aggregate fixed fees; they merely have been relocated from former Section E to current Section K of the Fee Schedule. This provision has also been modified to reflect the transition to the new trading model and to provide a basis for pro rating the fixed fees as issues migrate to the new trading model over the next several months. Fixed fees will continue to be charged for issues traded by CHX specialists; once an issue migrates to the new trading model and is no longer traded by a CHX specialist, the fixed fee due from the specialist for that month will be prorated based on the transition date.

Space Charges (Section L)

The rule changes relating to the new trading model provide that the Exchange will no longer be considered to have a physical trading floor from a regulatory perspective, although the current trading floor space will remain available for leasing by Participants (and ultimately perhaps by non- Participants). During the transitional period this fall, the existing billing

structure for booth space, post space and electrical or structural modifications to such space will remain in place, through December 31, 2006. After that date, any applicable space charges will be incorporated into separate lease agreements between the Exchange and entities that lease space on the Exchange's former trading floor.²⁹ The Exchange is in the process of finalizing its comprehensive space plan for the former trading floor, including the terms under which it will offer space for lease to Participants. These terms, and corresponding lease documentation, will be available consideration by Participants later this fall.

Equipment, Information Services & Technology Charges (Section M)

As with space charges, these fees will remain in place until December 31, 2006. Except as set forth below, there are no substantive changes to this section. Most changes are intended to delete obsolete provisions relating to the Exchange's former OTC specialist program.

- **Broker Connectivity Charge/Credit:** All network and connectivity charges are rebilled monthly to institutional brokers that access the network, based on the proportion of each firm's use of the network during the month.³⁰ Until completion of the new trading model rollout, institutional brokers will be eligible for a monthly network/connectivity fee credit, equal to a total monthly credit of \$15,000, allocated among institutional broker firms based on each firm's respective percentage of total monthly transaction fee credits.³¹

²⁹ See Section L of the Fee Schedule.

³⁰ See Section M of the Fee Schedule.

³¹ See Section F.2 of the Fee Schedule for a description of this credit.

Supplies, Rulebooks and Reports (Section N)

This section includes two new charges:

- **Brokerplex Report Charge:** There will be a charge of \$50 per month to provide reports of Participant Firm activity, by trader.³²
- **Trade and order data:** This charge is intended to help the Exchange defray the expenses of responding to Participants' data requests, which often require significant customization and other accommodation of specific requests.³³

Late Fees (Section O)

These provisions have not changed; they merely have been relocated from former Section N to current Section O of the Fee Schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act³⁴ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and is in line with other self-regulatory organizations that have implemented trading platforms similar to the CHX new trading model.

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 either solicited or received.

³² See Section N.3 of the Fee Schedule.

³³ See Section N.4 of the Fee Schedule.

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

Because the foregoing proposed rule change establishes or changes a member due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act³⁵ and Rule 19b-4(f)(2)³⁶ 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.³⁷

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 No. SR-CHX-2006-29 on the subject line.

Paper comments:

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

³⁴ 15 U.S.C. 78f(b)(4).

³⁵ 15 U.S.C. 78s(b)(3)(A).

³⁶ 17 CFR 19b-4(f)(2).

³⁷ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on October 20, 2006, the date on which the CHX filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR-CHX-2006-29. 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. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2006-29 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁸

Nancy M. Morris
Secretary

³⁸ 17 CFR 200.30-3(a)(12).