

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62085; File No. SR-CHX-2010-08)

May 12, 2010

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish a Fixed Provide Credit for CHX-registered Institutional Brokers

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 April 30, 2010, the Chicago Stock Exchange, Inc. (“CHX” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal 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 the Substance of the Proposed Rule Change

The CHX proposes to amend its Schedule of Participant Fees and Assessments (the “Fee Schedule”), effective May 3, 2010, to establish a fixed provide credit for CHX-registered institutional brokers for agency trade executions of one-sided orders entered by their customers in Tape A, B and C securities which execute within the Exchange’s Matching System. The proposal also removes certain obsolete references to the now-defunct ITS trading system in the Fee Schedule. The text of this proposed rule change is available on the Exchange’s website at

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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)(2).

[http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm) and in the Commission's Public Reference Room, 100 F Street, N.E., Washington, DC 20549.

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 changes 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. 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

Through this filing, the Exchange would amend its Fee Schedule, effective May 3, 2010, to establish a non-variable credit for certain liquidity-providing single-sided orders submitted by CHX-registered Institutional Brokers on behalf of their customers to the Exchange's Matching System and subsequently executed there. The Exchange's Fee Schedule provides for a tiered schedule of fees and rebates for Participants for trade executions of single-sided orders in securities priced over \$1 in the event that certain volume thresholds (described as the "Average Daily Volume" or "ADV") are achieved.<sup>5</sup> For transactions subject to the Agency Execution fee of Section E.3., the Fee Schedule states that the take fees and provide credits accruing pursuant to

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<sup>5</sup> Section E.1 of the Fee Schedule defines ADV as follows: "'ADV' means, with respect to a Participant, the number of shares such Participant has executed as a liquidity provider in any and all trading sessions on average per trading day (excluding partial trading days) across all tapes on the trading facilities of the CHX (excluding all cross transactions and transactions in issues priced less than \$1.00/share) for the calendar month in which the executions occurred."

Section E.1. (Matching System single order executions (one-sided orders of 100+ shares)) shall be assessed against the Institutional Broker handling the transaction, and not the Participant which is a party to the transaction.<sup>6</sup> Currently, the Institutional Broker is exempt from payment of the liquidity taking fee normally charged to Participants if it is handling an order subject to the Agency Execution fees.<sup>7</sup>

Pursuant to this filing, the Exchange would modify its Fee Schedule to state that Institutional Brokers would be entitled to a fixed provide credit irrespective of its ADV for orders subject to the Agency Execution fees. A provide credit of \$0.0029/share in Tape A and C securities and \$0.0032/share in Tape B securities priced \$1.00/share or more would be paid to the Institutional Broker representing the Participant which originated the order (regardless of the ADV attributable to either firm). The filing also calls for a provide credit of 0.20% of the trade value in Tape A, B and C securities priced less than \$1.00/share to be paid to the Institutional Broker representing the Participant which originated the order (regardless of the ADV attributable to either firm).

Institutional Brokers are typically smaller firms that enter orders manually and cannot realistically achieve the higher ADV levels needed for preferential pricing.<sup>8</sup> Payment of a fixed provide credit at a preferential rate to Institutional Brokers acts as an incentive to post liquidity in

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<sup>6</sup> See, Section E.3. of the Fee Schedule. (“If the institutional broker executes the order in the Matching System or as otherwise permitted by CHX rules, the institutional broker (not its customer) will be assessed applicable Matching System fees (see (1) and (2) above).”)

<sup>7</sup> Section E.1. of the Fee Schedule.

<sup>8</sup> Institutional Broker firms (formerly Floor Brokers under the Exchange’s old floor based trading model) are firms that primarily receive orders needing special handling and manual entry into the CHX system. These brokers are essentially order-entry firms for which the Exchange is the designated examining authority.

the CHX Matching System when those firms are considering how best to seek execution of their customer's orders. Representation of such orders within the CHX Matching System in turn benefits the Exchange by potentially increasing transaction revenue (in the form of take fees for orders which interact with posted liquidity) and market data revenue. Creating a fixed provide rate which does not vary based upon the Institutional Broker's ADV allows for a simple and consistent formula which these firms can rely upon when deciding to how to handle their customer's orders. Furthermore, any market participant may apply for registration as a CHX Institutional Broker and, if eligible, avail themselves of the fixed provide credit.

The Exchange also proposes to remove from Section E.1. and E.3. of the Fee Schedule certain obsolete references to the Intermarket Trading System ("ITS") and the payment obligations relating to orders transmitted to other ITS participating markets through the ITS system. The ITS system was deactivated in 2007 and is no longer in use. The removal of these obsolete references will serve to eliminate a potential source of confusion for Exchange Participants.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the change to the Fee Schedule would provide incentives to Exchange-registered Institutional Brokers to increase the amount of liquidity provided on our trading facilities, which may contribute to an increase in trading volume on the Exchange and in the income derived therefrom. The removal of the obsolete references to the Intermarket

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<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4)

Trading System in the Fee Schedule will serve to eliminate a potential source of confusion for Exchange Participants.

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 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)(ii) of the Act<sup>11</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>12</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such 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 purpose of the Act.

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:

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

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-2010-08 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-2010-08. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR-CHX-2010-08 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.<sup>13</sup>

Elizabeth M. Murphy  
Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).