

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66410; File No. SR-CHX-2012-06)

February 16, 2012

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend its Fee Schedule to Provide for a New Cross Connection Charge and Waive Monthly Fees at its New Facility Until April 1, 2012

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 February 9, 2012, 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 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 Substance of the Proposed Rule Change

CHX proposes to amend its Schedule of Fees and Assessments (the “Fee Schedule”), to provide for certain new cross connection charges and to waive monthly port fees and cross connection charges otherwise applicable to any Participants connecting to CHX’s new facilities in the Equinix NY4 data center (“NY4”) until April 1, 2012. CHX also proposes consolidating connection charges and modifying certain descriptions contained in the Fee Schedule for clarity.

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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).

The text of this proposed rule change is available on the Exchange's website at ([www.chx.com](http://www.chx.com)) and in 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 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 proposes to amend its Schedule of Fees and Assessments (the "Fee Schedule") to provide for certain new cross connection charges and to waive monthly port fees and cross connection charges otherwise applicable to any Participants connecting to CHX's new facilities in the Equinix NY4 data center ("NY4") until April 1, 2012. CHX also proposes consolidating connection charges and modifying certain descriptions contained in the Fee Schedule for clarity.

Last year, CHX began an initiative to establish a presence at NY4 in order to improve latencies for its east coast customers and increase the use of its Matching System. The following proposed modifications to the CHX Fee Schedule are related to this initiative.

The Exchange proposes to consolidate all connection charges into section D. and rename this section "Connection Charges." The Exchange also proposes dividing connection charges into two general categories: 1. "Matching System Port Charges", which are assessed for each

logical connection into the Exchange's Matching System; and, 2. "Cross Connection Charges", which are assessed based upon the capacity of the line that physically connects equipment and the type of equipment that is being connected. Such connections are utilized to send market data to, and receive orders from, the customer's equipment.

Under new section D. 1. "Matching System Port Charges" the Exchange will further clarify, in both the heading and the following descriptive paragraph, that such charges are for "logical" (i.e. not physical) connectivity. The Exchange will also further specify that one port charge is assessed for each Participant give-up that has access through any Participant connection to the Matching System. Additionally, the Exchange proposes removing the parenthetical reference to the effective date from the rule text.

Under new section D. 2. "Cross Connection Charges" the Exchange will clarify in the heading that such charges are for "physical" connectivity. The Exchange also proposes subdividing new section D. 2. into cross connection charges that are available for: (a) Carrier equipment to customer equipment connections; and, (b) Customer equipment to CHX equipment connections. The Exchange notes that the various charges specified in new section D. 2. (a) are those charges that previously appeared as "Data Connections" under section G. "Co-location Fees." The Exchange believes that moving these charges from section G. into section D. and thereby consolidating them with other types of connection charges will clarify the Fee Schedule. The Exchange also proposes deleting the subheading "Space" from Section G. "Co-location Fees" since it will no longer be needed to distinguish space rental charges from connectivity charges.

This proposal would also change the description for the "CHX Network Connection" charge, which previously appeared in Section G., to "1G Connection" and would also add a

second, higher capacity, 10G cross connection charge under new section D. 2. (b); which are physical connections from customer equipment to CHX equipment. In the case of the 1G connection, the Exchange will continue to charge a one-time fee of \$150 to establish the connection and a recurring monthly fee of \$100. In the case of the new higher capacity 10G connection, the Exchange proposes charging a one-time fee of \$1,000 to establish the connection and a recurring monthly fee of \$500. As mentioned above, such connections are utilized to send market data to, and receive orders from, the customer's equipment

Finally, in order to encourage current and new customers to establish connections at the Exchange's new facility and to provide a transitional period for those current customers that would like to move their connections from Chicago to the new NY4 facility, CHX proposes waiving monthly port fees and monthly cross connection charges at the NY4 facility until April 1, 2012. The Exchange believes that waiving monthly charges at NY4 until this date certain will accomplish its two goals of encouraging the establishment of new connections while avoiding temporarily double charging those customers that would simply like to connect to the new facility and then subsequently disconnect from the Chicago facility. To communicate this policy to all Participants, the Exchange proposes adding language to its Fee Schedule indicating that no monthly charges will be assessed under section D. for CHX's Equinix NY4 data center location until April 1, 2012. The Exchange notes that it will waive only the monthly fees applicable under section D. and not one-time fees because such fees are associated with the establishment of a new physical connection.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of

the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

Specifically, the Exchange believes that the addition of the 1G and 10 G cross connection charges specified above is reasonable because these charges are similar to those in effect for equivalent services at other exchanges.<sup>7</sup> Furthermore, these charges are equitable and non-discriminatory in that they are only charged to those Participants that have exclusive use of the connection for which the Exchange is charging.

The Exchange also believes that the waiver of monthly fees otherwise applicable under section D. of its Fee Schedule for connections established at its new NY4 facility until April 1, 2012 is both reasonable and equitable in that it encourages all Participants to establish connections at the new facility but will ultimately impose new charges on those that have established additional connections after that date. Furthermore, the Exchange believes that the waiver of monthly fees until a date certain results in a non-discriminatory application of fees in that it will not temporarily double charge those Participants that are transitioning to the new facility, provided the new connection is made and the old connection discontinued prior to April 1, 2012.

Finally, the Exchange believes that the proposed consolidation of connection charges and

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<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> See BATS BZX Exchange Fee Schedule, “Physical Connection Charges”, p.4, available on BATS’ public website. See also DirectEdge EDGA Exchange Fee Schedule, Physical Connectivity Fees, p.3, available on DirectEdge’s public website.

other clarifying modifications to its Fee Schedule are consistent with Section 6(b) of the Act<sup>8</sup> in general, and further the objectives of Section 6(b)(5) of the Act<sup>9</sup> in particular, in that they foster a better understanding of the various fees charged by the Exchange to all Participants and other persons using any facility or system which the Exchange operates or controls.

B. Self-Regulatory Organization's Statement of 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. The addition of fees similar to those charged by competing markets and the temporary waiver of monthly fees at a new facility during a brief transitional period will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding 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

The proposed rule change is to take effect pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>11</sup> because it establishes or changes a due, fee or other charge applicable to the Exchange's members and non-members, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

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<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes 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:

##### 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-2012-06 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-2012-06. 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 website (<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 website 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 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-2012-06 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>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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