

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-52724; File No. SR-CHX-2005-26)

November 2, 2005

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit Execution of Mixed Lot Cross and Cross With Size Orders in the Electronic Book

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 11, 2005, the Chicago Stock Exchange, Incorporated (“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 by the Exchange. The Exchange has designated the proposed rule change as constituting a “non-controversial” rule change pursuant to Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 CHX Article XXA, Rule 2, to permit the execution of mixed lot cross and cross with size orders in the electronic book. The text of the proposed rule change is set forth below. Proposed new language is underlined; proposed deletions are in [brackets].

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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)(iii).

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

<sup>5</sup> The Exchange has requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

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**ARTICLE XXA****Operation of the Electronic Book**

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**Eligible Orders**

RULE 2. (a) Except for cross and cross with size orders, which may be sent to the electronic book in mixed lot increments, a[A]ll orders sent to the electronic book must be round-lot limit orders, specifically designated in the manner specified by the Exchange to confirm that they are eligible for trading in the electronic book.

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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 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

The Exchange recently implemented a fully-automated electronic book for the display and execution of orders in securities that are not assigned to a specialist.<sup>6</sup> These new rules

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<sup>6</sup> See Securities Exchange Act Release No. 52094 (July 21, 2005), 70 FR 43913 (July 29, 2005). The Exchange has rolled out this technology for the trading of Nasdaq/NM securities and anticipates implementing its use for the trading of listed securities within

replace the Exchange's manual cabinet and lead market maker trading procedures with a new fully automated electronic book that displays and matches eligible limit orders in eligible securities, without the participation of a specialist or lead market maker.

The electronic book was originally designed to accept only round lot orders. The Exchange now believes that it would be appropriate to allow CHX participants to submit mixed lot cross and cross with size orders for immediate execution in the electronic book. "Cross" and "cross with size" orders permit the handling of orders to buy and sell the same security – within the electronic book, these orders are automatically executed if they meet the requirements for these types of orders, but are immediately cancelled if they do not meet applicable requirements.<sup>7</sup> The Exchange believes that some of its participants would welcome the opportunity to submit mixed lot cross and cross with size orders to the electronic book. The Exchange believes that this relatively minor change to Exchange systems will permit its participants to execute additional transactions in this automated trading facility, but will not have any impact on the protection of investors or the public interest.

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the next two weeks. Telephone call between Ellen Neely, President, CHX and Sara Gillis, Attorney, Division of Market Regulation, Commission on October 27, 2005.

<sup>7</sup> A "cross" order is an order to buy and sell the same security at a specific price that is better than the best bid and offer displayed in the electronic book and, for listed securities, equal to or better than the NBBO. A "cross with size" order is an order to buy and sell at least 25,000 shares of the same security (a) at a price equal to or better than the best bid or offer displayed in the electronic book and, for listed securities, equal to or better than the NBBO; (b) where the size of the order is larger than the aggregate size of all interest displayed in the electronic book at that price; and (c) where neither side of the order is for the account of the CHX participant sending the order to the electronic book. See CHX Rules, Article XXA, Rule 2(c)(3) and (4).

## 2. Statutory Basis

The CHX believes 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 particular, with the requirements of Section 6(b).<sup>8</sup> The CHX believes the proposal is consistent with Section 6(b)(5) of the Act<sup>9</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public.

### 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.

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

Because the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of the filing, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> 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

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

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

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

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

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. As required under Rule 19b-4(f)(6)(iii) under the Act,<sup>12</sup> the Exchange provided with the Commission with 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 the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.<sup>13</sup> However, Rule 19b-4(f)(6)(iii) 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 asked the Commission to waive the 30-day operative delay and allow the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the 30-day operative delay will allow Exchange participants to make immediate use of the electronic book functionality for their mixed lot cross and cross with size orders, which may permit Exchange participants to access potentially larger pools of liquidity located in the electronic book. For the reasons stated above, the Commission finds good cause to designate that the proposal is operative immediately.<sup>14</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:

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<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> Id.

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-2005-26 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File No. SR-CHX-2005-26. 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 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 No. SR-CHX-2005-26 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>15</sup>

Jonathan G. Katz  
Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).