

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54090; File No. SR-CHX-2006-22)

June 30, 2006

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Amend the CHX Holdings, Inc. Certificate of Incorporation

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 22, 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 June 30, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The CHX is proposing, on behalf of its parent company, CHX Holdings, Inc. (“CHX Holdings”), to amend the CHX Holdings Certificate of Incorporation (the “charter”) to: (1) make a minor change in the ownership limitations applicable to both CHX participants and other persons or entities; and (2) increase the number of shares of common stock which CHX Holdings is authorized to issue. The text of the proposed rule change appears below. Additions are

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange made technical changes to correct the marking of the proposed rule text.

underlined; deletions are [bracketed].

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CERTIFICATE OF INCORPORATION OF CHX HOLDINGS, INC.

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Authorized Stock

FOURTH: The total number of shares of stock which the Corporation shall have authority to issue is 900,000[750,000] shares of common stock having a par value of \$.01 per share and 25,000 shares of preferred stock having a par value of \$.01 per share. The Board of Directors is expressly authorized to fix by resolution any of the designations and the powers, preferences and rights and the qualifications, limitations or restrictions which are permitted by Section 151 of the General Corporation Law of Delaware in respect of any such class or classes of preferred stock or any series of any class or classes of preferred stock of the Corporation.

Limitations on Transfer, Ownership and Voting

FIFTH:

- (a) No change to text.
- (b) Limitations.
 - (i) No change to text.
 - (ii) For so long as the Corporation shall control, directly or indirectly, the Chicago Stock Exchange, Inc., except as provided in clause (iii) below:

(A) no Person (as defined above), either alone or together with its Related Persons (as defined above), may own, directly or indirectly, of record or beneficially shares of stock of the Corporation representing in the aggregate [constituting] more than forty percent (40%) of [any class of capital stock (whether common stock or preferred stock) of the Corporation] the then outstanding votes entitled to be cast on any matter;

(B) no Person, either alone or together with its Related Persons, who holds a trading permit of the Chicago Stock Exchange, Inc., may own, directly or indirectly, of record or beneficially shares of stock of the Corporation representing in the aggregate [constituting] more than twenty percent (20%) of [any class of capital stock of the Corporation] the then outstanding votes entitled to be cast on any matter; and

(C) No change to text.

(iii) No change to text.

(A) No change to text.

(B) No change to text.

(iv) No change to text.

(v) Notwithstanding clauses (iii)(A) and (iii)(B) above, any Person (and its Related Persons owning any capital stock of the Corporation) which proposes to own, directly or indirectly, of record or beneficially shares of [the capital] stock [(whether common stock or preferred stock)] of the Corporation representing in the aggregate [constituting] more than forty percent (40%) of [the outstanding shares of any class of capital stock of the Corporation] the then

outstanding votes entitled to be cast on any matter, or to exercise voting rights, or grant any proxies or consents with respect to shares of [the capital] stock [(whether common stock or preferred stock)] of the Corporation representing in the aggregate [constituting] more than twenty percent (20%) of [the outstanding shares of any class of capital stock of the Corporation] the then outstanding votes entitled to be cast on any matter, shall have delivered to the Board of Directors of the Corporation a notice in writing, not less than forty-five (45) days (or any shorter period to which said Board shall expressly consent) before the proposed ownership of such shares, or the proposed exercise of said voting rights or the granting of said proxies or consents, of its intention to do so.

(c) Required Notices.

(i) Any Person that, either alone or together with its Related Persons, owns, directly or indirectly (whether by acquisition or by a change in the number of shares outstanding), of record or beneficially shares of stock of the Corporation that represent five percent (5%) or more of the then outstanding votes entitled to be cast on any matter [outstanding shares of capital stock of the Corporation] (excluding shares of any class of preferred stock that does not have the right by its terms to vote generally in the election of members of the Board of Directors of the Corporation) shall, immediately upon [owning] becoming the owner of such amount of stock [five percent (5%) or more of the then outstanding shares of such stock], give the Board of Directors written notice of such ownership, which notice shall state: (A) such Person's full legal name; (B) such Person's title or status and the date on which such title or status was acquired; (C) such Person's approximate ownership interest of the Corporation; and (D) whether such Person

has the power, directly or indirectly, to direct the management or policies of the Corporation, whether through ownership of securities, by contract or otherwise.

(ii) Each Person required to provide written notice pursuant to subparagraph (c)(i) of this Article Fifth shall update such notice promptly after any change in the contents of that notice; provided that no such updated notice shall be required to be provided to the Board of Directors in the event of an increase or decrease in the ownership percentage so reported of shares of stock of the Corporation that represent less than one percent (1%) of the then outstanding votes entitled to be cast on any matter [then outstanding shares of any class of capital stock] (such increase or decrease to be measured cumulatively from the amount shown on the last such report), unless any increase or decrease of less than one percent (1%) results in such Person owning shares of stock of the Corporation that represent more than twenty percent (20%) or more than forty percent (40%) of the then outstanding votes entitled to be cast on any matter [shares of any class of capital stock then outstanding] (at a time when such Person previously owned less than such percentages) or such Person owning shares of stock of the Corporation that represent less than twenty percent (20%) or less than forty percent (40%) of the then outstanding votes entitled to be cast on any matter [shares of any class of capital stock then outstanding] (at a time when such Person previously owned more than such percentages).

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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 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

As a result of its demutualization in February 2005, the Exchange became the wholly-owned subsidiary of CHX Holdings, a Delaware corporation.⁴ The Exchange's demutualization was driven, in part, by a desire to generate opportunities to enter into strategic alliances by offering stock to interested entities. On June 21, 2006, CHX Holdings announced that it had agreed to the terms of strategic transactions with four firms that will result in an investment in CHX Holdings, in exchange for minority equity stakes in the company. In connection with these transactions, CHX Holdings has agreed to propose amendments to its charter to: (1) make a minor change in the ownership limitations applicable to both CHX participants and other persons or entities; and (2) increase the number of shares of common stock which CHX Holdings is authorized to issue.

⁴ See Securities Exchange Act Release No. 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (order approving File No. SR-CHX-2004-26) ("Demutualization Approval Order").

The CHX Holdings charter currently prohibits any person, either alone or together with its related persons, from owning, directly or indirectly, shares constituting more than 40% of any class of CHX Holdings capital stock.⁵ A related provision bars any person that holds a CHX trading permit, either alone or together with its related persons, from owning, directly or indirectly, shares constituting more than 20% of any class of CHX Holdings capital stock.⁶ Other provisions place limitations on the percentage of shares that can be voted.⁷ The ownership and voting limitations that apply to holders of CHX trading permits were designed to ensure that no participant in the Exchange (or its parent company, CHX Holdings) has such a large ownership in CHX Holdings that it casts doubt on the Exchange's ability to fairly and objectively exercise its self-regulatory responsibilities.⁸

⁵ See Article Fifth, Section (b)(ii)(A) of the CHX Holdings charter. This article defines a "person" as "an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization or any governmental entity or agency or political subdivision thereof." See Article Fifth, Section (a)(i). A "related person" is defined as "(A) with respect to any [p]erson, all 'affiliates' and 'associates' of such [p]erson (as such terms are defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended); (B) with respect to any [p]erson that holds a permit issued by the Chicago Stock Exchange, Inc. to trade securities on the Chicago Stock Exchange (a "Participant"), any broker or dealer with which a Participant is associated; and (C) any two or more [p]ersons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of the Corporation." See Article Fifth, Section (a)(ii).

⁶ See Article Fifth, Section (b)(ii)(B).

⁷ See Article Fifth, Section (b)(ii)(C).

⁸ The Commission consistently has noted this concern as it approved substantially similar ownership and voting restrictions in connection with the proposed demutualizations or restructurings of national securities exchanges. See Demutualization Approval Order, *supra* note 4, 70 FR at 7538; Securities Exchange Act Release No. 49718 (May 17, 2004), 69 FR 29611 (May 24, 2004) (order approving SR-PCX-2004-08); Securities Exchange Act Release No. 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (order approving SR-Phlx-2003-73).

CHX Holdings now seeks to make a minor change in these ownership provisions – keeping the same 20% and 40% limitations – but referring to shares of stock of CHX Holdings representing in the aggregate more than 20% or 40% of “the then outstanding votes entitled to be cast on any matter,” rather than to the shares of each class of stock that a person might own. CHX Holdings believes that this revised definition would more precisely address the reason for establishing the limitations in the first place – to limit the voting power that can be wielded by a stockholder that is also an Exchange participant. The language proposed by CHX Holdings is identical to text included in the recently-approved Amended and Restated Certificate of Incorporation of NYSE Group, Inc.⁹

In addition to the above-noted proposed wording change to the ownership limitations set out in the CHX Holdings charter, CHX Holdings also seeks approval to increase the number of shares of common stock that can be issued by the company from 750,000 to 900,000. CHX Holdings proposes this increase in the number of authorized shares to, among other things, permit the company to seek one or more additional investors and to have shares available if the company later seeks to establish an equity compensation plan for directors, officers or employees.

All of these proposed changes to the CHX Holdings charter must be presented to the CHX Holdings stockholders for approval before they are effective. CHX Holdings plans to do so

⁹ See Article V, Section 2 of the Amended and Restated Certificate of Incorporation of NYSE Group, Inc., approved by the Commission in Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (order approving NYSE-2005-77).

at the annual stockholder meeting on July 19, 2006.¹⁰ Stockholders will be provided with proxy materials prior to the meeting that will describe these proposals and other issues in more detail.¹¹

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).¹² The CHX believes the proposal is consistent with Section 6(b)(5) of the Act¹³ in that it is designed to promote just and equitable principles of trade, to remove impediments, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest by permitting CHX Holdings to make minor changes to the ownership limitations set out in its charter that fully address the reasons for establishing those limitations in the first place and that are identical to the language used by at least one other national securities exchange in doing so.

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.

¹⁰ If CHX Holdings stockholders approve the proposed change, the Exchange will file with the Commission an amendment to this proposal to reflect that approval.

¹¹ CHX Holdings has halted trading in its common stock until the third business day following distribution of these materials.

¹² 15 U.S.C. 78(f)(b).

¹³ 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 Exchange 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, 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 Number SR-CHX-2006-22 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-CHX-2006-22. 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 Number SR-CHX-2006-22 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Nancy M. Morris
Secretary

¹⁴ 17 CFR 200.30-3(a)(12).