

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54495; File No. SR-CHX-2006-27)

September 25, 2006

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Retroactive Application of Participant Fees and Credits

On August 10, 2006, the Chicago Stock Exchange, Inc. (“CHX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to make retroactive to February 9, 2005, the trading permit fee due to the Exchange if a CHX participant’s trading permit is cancelled intra-year. The proposed rule change was published for comment in the Federal Register on August 23, 2006.<sup>3</sup> The Commission received no comments regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>4</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>5</sup> which requires that the rules of an exchange provide for the equitable allocation or reasonable dues, fees and other charges among its members and other persons using its facilities.

The proposal to permit CHX participants to pay the Exchange the lesser of \$2,000 or the remaining balance of the annual trading permit fee if cancelled intra-year originally became

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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> See Securities Exchange Act Release No. 54323 (August 16, 2003), 71 FR 49495.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

effective on October 24, 2005.<sup>6</sup> The Exchange intended but did not request retroactive application of this amended Fee Schedule when the rule change was originally filed with the Commission. The Exchange believes that CHX participants who terminated their permits intra-year are entitled to a refund. Further, the Exchange has been reserving funds for such remuneration. The Commission therefore finds that it is appropriate to make retroactive to February 9, 2005, the Fee Schedule change as described above.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-CHX-2006-27) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Nancy M. Morris  
Secretary

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<sup>6</sup> See Securities Exchange Act Release No. 52815 (November 21, 2005), 70 FR 71572 (November 29, 2005) (SR-CHX-2005-31).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).