

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54791; File No. SR-CHX-2006-31)

November 20, 2006

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Participant Fees and Credits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 23, 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 November 15, 2006, the CHX filed Amendment No. 1 to the proposed rule change.³ The CHX has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the CHX pursuant to Section 19(b)(3)(A)(ii) of the Act,⁴ and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The purpose of Amendment No. 1 is to provide further clarity as to the proposed NTM Fee Schedule changes, by providing additional commentary with respect to: (i) the provisions of the NTM Fee Schedule that are impacted; (ii) the amounts of the fees established by such provisions; (iii) the basis for certain changes or references to these provisions; and (iv) the correction of certain rule change marking.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

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

The CHX proposes several changes to its Schedule of Participant Fees and Credits (the "NTM Fee Schedule"), relating to the new trading model being implemented by the CHX this fall. The text of this proposed rule change is available on the Exchange's Web site at http://www.chx.com/rules/proposed_rules.htm 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 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

Throughout 2006, the Exchange has been working on the design and development of a new trading model centered around a core matching system that will provide for fully automated electronic matching of orders, as well as corresponding rules and regulatory initiatives. On September 29, 2006, the Exchange's proposed rules relating to the new trading model were approved by the Commission.⁶

On September 29, 2006, the Exchange filed with the Commission its NTM Fee Schedule, contemplating the Exchange's transition to its new trading model, commencing the week of

⁶ See Securities Exchange Act Release No. 54550 (September 29, 2006); 71 FR 59563 (October 10, 2006) (SR-CHX-2006-05) (referred to as the "NTM Approval Order").

October 23, 2006.⁷ Subsequent industry developments, and further refinement of certain NTM Fee Schedule provisions, have necessitated several changes to the NTM Fee Schedule. These changes are summarized below:

Trading Permit Fees: There is no change to the text of Section A of the NTM Fee Schedule. The text of Section A merely incorporates the Trading Permit cancellation fee that was in place prior to submission of the NTM Fee Schedule.⁸ This cancellation fee is unchanged and remains in effect for Trading Permits that were issued before October 1, 2006. This provision was inadvertently omitted from the NTM Fee Schedule when it was submitted in SR-CHX-2006-29.⁹

Registration Fees: This change is intended to clarify application of the Off-Exchange trader fee. The \$500 annual fee is assessed for a trader who is engaged in proprietary securities trading for an Off-Exchange Participant Firm for which the CHX is the Designated Examining Authority, if such Participant Firm is solely involved in proprietary securities trading. The clarifying change relates to the Participant Firm; the Participant Firm must be solely involved in proprietary securities trading for the fee to be assessed. Other Participant Firms would not be assessed an Off-Exchange trader fee.

⁷ See Securities Exchange Act Release No. 54657 (October 26, 2006); 71 FR 64590 (November 2, 2006) (SR-CHX-2006-29). The NTM Fee Schedule provides for all fees and charges that are billed by the Exchange to its participants; it does not contain any fees or charges that are applicable to non-participants.

⁸ This fee, which is applicable to trading permits in effect before October 1, 2006, is \$2,000, or, if less, \$500/month for the remainder of the one-year term.

⁹ The provision was not shown in Exhibit 5 to SR-CHX-2006-29, but was not deleted in such submission (or any other submission) and remains applicable. See Securities Exchange Act Release No. 54657 (October 26, 2006); 71 FR 64590 (November 2, 2006) (SR-CHX-2006-29).

Transaction and Order Processing Fees: This change to Section E.1 of the NTM Fee Schedule is intended to clarify that the liquidity taking fee of \$0.0028/share for a Matching System single order execution does not apply to a CHX institutional broker in connection with a transaction that is subject to the agency fees set forth in Section E.3 of the NTM Fee Schedule. Because the institutional broker's customer is assessed the agency fee under Section E.3, the institutional broker would not also be subject to a take fee for the same transaction. This change does not modify applicable provisions regarding credits for providing liquidity to the Matching System.

Matching System Routing Fees /Transaction and Order Processing Fees Associated with Securities Not Yet Traded in the Matching System: These changes to Section E.6 and Section E.8 (formerly E.7) of the NTM Fee Schedule relate to the fees that the CHX may assess against its participants on account of outbound NMS Linkage Plan orders. Section E.6 applies to orders that are Matching System eligible and therefore are routed from the Matching System to other market centers. Section E.8 applies to orders that have not yet migrated to the Matching System and therefore are routed from the Exchange's pre-NTM facilities.

This provision was necessitated in order to implement the CHX's participation in the exchange-to-exchange billing arrangement associated with the NMS Linkage Plan, which took effect on October 1, 2006.¹⁰ When an outbound NMS Linkage Plan order is executed on another NMS Linkage participant market, such market will directly invoice the CHX for a transaction fee, in an amount that may not exceed the transaction fee that it would charge its own member

¹⁰ See Securities Exchange Act Release No. 54548 (September 29, 2006), 71 FR 59159 (October 6, 2006) (SR-CHX-2006-28) (approving NMS Linkage Plan exchange-to-exchange billing procedures); Securities Exchange Act Release No. 54551 (September 29, 2006), 71 FR 59148 (October 6, 2006) (approving NMS Linkage Plan).

for such an execution. The CHX is then responsible for payment of such invoice. Sections E.6 and E.8 of the NTM Fee Schedule provision permit the CHX to collect a corresponding fee from the CHX participant who generated the outbound NMS Linkage Plan order. The CHX believes that it is appropriate to establish outbound NMS Linkage fee rates that reasonably correspond to the respective transaction fee rates being charged by the executing markets. Accordingly, it is submitting changes to Sections E.6 and E.8 of the NTM Fee Schedule, to reflect recent developments regarding applicable transaction fees assessed by other market centers on account of NMS Linkage Plan executions.

As an example, in the NTM Fee Schedule, the CHX originally established an outbound fee, for non-ETF orders routed to the Nasdaq Stock Market, that was significantly higher than Nasdaq's applicable transaction fee rate for October, 2006.¹¹ This proposed rule change seeks to modify this rate for the balance of the month of October; the rate would then revert to the originally-filed rate effective November 1, 2006. Specifically, from October 23 through October 31, 2006, the outbound fee for NMS Linkage orders routed to Nasdaq (in issues other than exchange-traded funds) would decrease from \$.0030/share to \$.0007/share. On November 1, 2006, the effective date of Nasdaq's fee increase, the CHX outbound NMS Linkage routing fee for such issues would return to \$.0030/share. This change is not applicable to orders for exchange-traded funds.

Trade Processing Fees: New Section E.7 of the NTM Fee Schedule is not a new provision; this provision, which provides for a Trade Processing Fee of \$.0015/share, up to \$100 per side of the trade, is merely relocated from former Section H.2. New Section H.2. establishes

¹¹ The CHX anticipated that Nasdaq's transaction fee rate was increasing, but the increase ultimately was filed with an effective date of November 1, 2006 instead of October 1.

a Clearing Support Activity Fee, which will be assessed by the CHX beginning January 1, 2007. This fee of \$.02 per ticket, capped at \$8,000 per month, will apply to firms that average, within a month, at least 2,500 tickets per day. In establishing this fee, the CHX is attempting to defray some of the expenses associated with clearing support services that it provides to certain participant firms. Prior to submission of the NTM Fee Schedule, these expenses were largely offset by a portion of the Specialist Fixed Fee, which was eliminated in the NTM Fee Schedule. Although this fee is a new fee, the actual aggregate amount assessed by the CHX will decrease, due to elimination of the Specialist Fixed Fee. Accordingly, the CHX believes that it is appropriate to institute the new Clearing Support Activity Fee.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6(b)(4) of the Act¹² in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.¹³

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.

¹² 15 U.S.C. 78f(b)(4).

¹³ Email from Kathleen Boege, Vice President and Associate General Counsel, CHX, to Joseph Morra, Special Counsel, Division of Market Regulation ("Division"), Commission, and Sara Gillis, Attorney, Division, Commission, dated November 16, 2006.

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

Because the foregoing proposed rule change establishes or changes a member due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(B)(3)(A) of the Act¹⁴ and subparagraph (f)(2) of Rule 19b-4 thereunder.¹⁵ 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 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.¹⁶

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 No. SR-CHX-2006-31 on the subject line.

Paper comments:

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

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on November 15, 2006, the date on which the CHX filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR-CHX-2006-31. 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 such filing also will be available for inspection and copying at the principal office of the CHX. 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-2006-31 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Nancy M. Morris
Secretary

¹⁷ 17 CFR 200.30-3(a)(12).