

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55070; File No. SR-CHX-2006-37)

January 9, 2007

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 November 21, 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 substantially prepared by the CHX. On December 21, 2006, the CHX filed Amendment No. 1 to the proposed rule change. 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,³ and Rule 19b-4(f)(2) thereunder,⁴ 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 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 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 to amend its Schedule of Participant Fees and Credits (the "Fee Schedule") to reduce specialist fixed fees that are applicable during the period when the CHX transitions to its new trading model. The text of this proposed rule change is available at the CHX, 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

As part of the Exchange's new trading model, the CHX is transitioning from a floor-based exchange, with a single specialist firm assigned to trade designated issues, to a fully-automated electronic facility, with issues eligible for trading by multiple market makers and other eligible CHX participants. This transition commenced during the week of October 23, 2006, and is expected to be completed by mid-January. The CHX's transition to its new trading model is structured on an issue-by-issue basis. Once an issue is "converted," it is then eligible for trading in the CHX electronic matching engine and is no longer traded by a CHX specialist.

In connection with this transition, the CHX previously submitted a series of comprehensive revisions to its Fee Schedule to address various aspects of the new trading model, including the transition away from a specialist system.⁵ The initial revision to the Fee Schedule provided that, with respect to the specialist fixed fee,⁶ during the transition period, such transitional fixed fees will continue to be charged on securities traded by specialists as the Exchange transitions to its new trading model, on a prorated basis.⁷ The proration provision was intended to eliminate the fixed fee as soon as an issue makes the transition to the new trading model and is no longer traded by the CHX specialist.

After further consideration and additional dialogue with CHX participants, the Exchange believes that further refinement of this provision is appropriate. Specifically, the Exchange proposes to modify Section K of the Fee Schedule to provide for a monthly credit of \$25,000 per specialist firm, to be applied against each firm's monthly transitional fixed fee. The \$25,000 monthly credit would be applied against the first \$25,000 in monthly specialist fixed fees otherwise due to the CHX from a participant firm. If the participant firm's fixed fee liability is less than \$25,000, the CHX would apply a credit equal to the amount of the fixed fee liability, but would not issue a refund to such participant firm for the remaining balance of the credit, nor

⁵ See Securities Exchange Act Release No. 54657 (October 26, 2006), 71 FR 64590 (November 2, 2006) (SR-CHX-2006-29).

⁶ The specialist fixed fee is a long-standing fee that is allocated on a monthly basis among CHX specialist firms. It provides the CHX with a means of allocating certain expenses, relating to systems and infrastructure, that support the CHX specialist system.

⁷ To determine the amount of the fixed fee during each month of this transition period, the Exchange will calculate the aggregate fixed fees for the month based on the total number of issues traded by specialists as of the day before the Exchange begins to trade the first specialist-traded security in the new model. The Exchange then will only charge a specialist firm the fixed fees associated with the securities that it traded as specialist during each month, prorating the fee based on the date that an issue makes its transition to the Matching System for trading, as applicable.

would the CHX carry forward the balance of the credit for application to future fixed fee liabilities.

For example, if a specialist firm's monthly fixed fee liability was \$32,000, the CHX would apply the \$25,000 credit and the firm would be billed for the remaining balance of \$7,000 in net fixed fees. If a specialist firm's monthly fixed fee liability was \$10,000, the CHX would apply a credit of \$10,000, offsetting the entire liability, and the CHX would not bill the specialist firm for any fixed fees that month. The CHX would not issue a refund of \$15,000 to the specialist firm on account of the unused portion of the available credit, and the unused portion would not be available to offset fixed fee liabilities in future months.

The CHX believes that this credit, which was negotiated after substantial discussion with its specialist community, is warranted under the circumstances. The credit addresses the contention of certain specialists that specialist fixed fees should be eliminated more quickly, because legacy technology and other pre-new trading model systems (which are funded in part by the specialist fixed fee) are not as useful to them. More significantly, it permits the Exchange to roll out its new trading model on terms that the Exchange believes to be most prudent from a technology perspective,⁸ while reducing the costs that must continue to be borne by specialist firms as a result of the rollout schedule.⁹ Moreover, the proposed credit would provide specialist

⁸ The CHX has given considerable thought to establishing an implementation schedule that minimizes the risks associated with implementing significant new technology. Generally speaking, this schedule involves first migrating issues that customarily have lower trading volumes, followed by issues with higher trading volumes, so that technology staff can assess the impact of gradual increases in trading volumes and more readily identify problems. The CHX believes that this strategy is more prudent than a "hard cutover," which would involve simultaneous migration of all issues to the new trading model technology.

⁹ Certain issues have higher fixed fees relative to other issues. Accordingly, the new trading model rollout schedule has economic consequences for CHX specialist firms, because specialist fixed fees are eliminated entirely once an issue transitions to the CHX

firms with a specified reduction in their fixed fees during the transition period, permitting them to budget accordingly.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(4) of the Act¹⁰ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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 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 Act¹¹ and subparagraph (f)(2) of Rule 19b-4 thereunder.¹² At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule

new trading model and is no longer traded by a specialist. Absent the credit described in this submission, therefore, a specialist firm likely would request immediate transition of issues with the highest fixed fees to the new trading model, whereas the CHX might prefer to delay transition of such issues until later in the overall new trading model implementation process, in order to better manage the overall implementation plan.

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

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.¹³

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. Please include File Number SR-CHX-2006-37 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.

All submissions should refer to File Number SR-CHX-2006-37. 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

¹³ 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

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-2006-37 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.¹⁴

Florence E. Harmon
Deputy Secretary

Commission considers the period to commence on December 21, 2006, the date on which the CHX filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

¹⁴ 17 CFR 200.30-3(a)(12).