

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-61656; File No. SR-CHX-2010-04)

March 5, 2010

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Chicago Stock Exchange, Inc. to Aggregate Trading Activity of Affiliated Participants to Calculate Average Daily Trading Volume for Billing Purposes

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 February 26, 2010, the Chicago Stock Exchange, Inc. (“CHX” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 its Schedule of Participant Fees and Assessments (the “Fee Schedule”), effective March 1, 2010, to aggregate the activity of affiliate entities when computing and assessing certain fees of the Exchange. The text of this proposed rule change is available on the Exchange’s Web site at

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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).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

[http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm) and in the Commission's Public Reference Room, 100 F Street, N.E., Washington, DC 20549.

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 changes 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

Through this filing, the Exchange would amend its Fee Schedule, effective March 1, 2010, to permit the aggregation of the trading activity of affiliated CHX Participants for the purposes of calculating and assessing certain fees. A Participant must request the aggregation of affiliate activity by submitting an Application to the Exchange.<sup>5</sup> The Exchange shall have the right to request additional information in order to verify the affiliate status of an entity.

Once approved, the Exchange will aggregate the activity of affiliated Participants for the calculation of its Matching System Port Charges under to Section D of its Fee Schedule and its Transaction Fees for single-sided orders under to Section E.1. of its Fee Schedule. Pursuant to Section D, the Exchange normally charges a fee for each "port" or logical network connection to the CHX network. Port charges are not assessed for

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<sup>5</sup> The Exchange will post the Application form on its public website.

connections to the Matching System for a month in which a Participant Firm executes an average daily volume of 5 million or more provide shares in the Matching System during the month. Pursuant to Section E.1. of the Fee Schedule, Participants pay fees and receive rebates for trades executed in our Matching System whenever they take or provide liquidity, respectively. The amount of those fees and rebates vary depending on whether the Participant executes an average daily volume in excess of 500,000 or 5 million provide shares.

The current proposal would permit two or more Participants which are “affiliates,” as defined, to aggregate their trade volume for purposes of these fee computations. An “affiliate” of a Participant is defined as any wholly owned subsidiary, parent or sister of the Participant that is also a Participant. A “wholly owned subsidiary” is defined as a subsidiary of a Participant, 100% of whose voting stock or comparable ownership interest is owned by the Participant, either directly or indirectly through other wholly owned subsidiaries. A “parent” is defined as an entity that directly or indirectly owns 100% of the voting stock or comparable ownership interest of a Participant. A “sister” is defined as an entity, 100% of whose voting stock or comparable ownership interest is owned by a parent that also owns 100% of the voting stock or comparable ownership interest of a Participant.

As noted above, a Participant must apply for this treatment on behalf of itself and its affiliate(s). The applicant would be responsible for immediately notifying the Exchange if the status of any of the affiliated entities changed at some point in the future. For example, if a Participant had applied for and been approved to aggregate the trading volume of itself and a sister company and their common parent company later sold the

sister company to an unaffiliated third party, then the Participant must immediately notify the Exchange that the two companies are no longer affiliated. Finally, the Exchange is only obligated to aggregate the volume of affiliates each of which are Participants holding a trading permit. The trading volume of entities which are not Exchange Participants will not be aggregated with that of Participants, even if the two entities are affiliates as defined.

The Exchange proposes to implement the aggregation policy effective March 1, 2010.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the Exchange believes that the aggregation policy fairly allows affiliated Participants to combine their trading volumes for purpose of certain fee calculations and may, as a result, induce such firms to send additional orders to the Exchange for execution.

### 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4)

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>9</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such 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 purpose of the Act.

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](mailto:rule-comments@sec.gov). Please include File Number SR-CHX-2010-04 on the subject line.

Paper Comments:

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

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

All submissions should refer to File Number SR-CHX-2010-04. 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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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-2010-04 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).