

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-80754; File No. SR-CHX-2017-10)

May 24, 2017

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify Certain Appendix B Website Publication Requirements Pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on May 15, 2017, the Chicago Stock Exchange, Inc. (“CHX” or the “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 Exchange. 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

CHX proposes to amend Article 20, Rule 13(b) of the Rules of the Exchange (“CHX Rules”) to modify certain Appendix B website data publication requirements pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (“Plan”).

The text of this proposed rule change is available on the Exchange’s Web site at [www.chx.com](http://www.chx.com) 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 changes and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Article 20, Rule 13(b) (Compliance with Data Collection Requirements)<sup>3</sup> implements the data collection and website publication requirements of the Plan.<sup>4</sup> Article 20, Rule 13(b)(2)(A) requires, among other things, that a CHX Participant<sup>5</sup> that operates a Trading Center subject to the Plan and for which the Exchange is the designated examining authority (“DEA”) shall collect and transmit to the Exchange data described under Items I and II of Appendix B of the Plan. Subparagraph (v) under Article 20, Rule 13(b)(2)(A) provides, among other things, that the Exchange shall publish such Appendix B.I. and B.II. data on the CHX website within 120 calendar days following month end at no charge and shall not identify the Trading Center that generated the data. Paragraph .08 of the Interpretations and Policies under Article 20, Rule 13(b) provides, among other things, that the requirement that the Exchange make certain data publicly available on the Exchange or DEA’s website pursuant to Appendix B and C to the Plan shall

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<sup>3</sup> See Securities Exchange Act Release No. 79538 (December 13, 2016), 81 FR 91979 (December 19, 2016) (SR-CHX-2016-21); see also Securities Exchange Act Release No. 77469 (March 29, 2016), 81 FR 19275 (April 4, 2016) (SR-CHX-2016-03).

<sup>4</sup> The Plan Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (“SRO Tick Size Plan Proposal”). See Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

<sup>5</sup> A “Participant” is a “member” of the Exchange for purposes of the Act. See CHX Article 1, Rule 1(s). For clarity, the Exchange proposes to utilize the term “CHX Participant” when referring to members of the Exchange and the term “Plan Participant” when referring to Participants of the Plan.

commence at the beginning of the Pilot Period,<sup>6</sup> and that the Exchange shall make Appendix C.I data available to the Financial Industry Regulatory Authority (“FINRA”) for aggregation and publication on the FINRA website pursuant to FINRA Rules and the Exchange will publish Appendix B data on the Exchange website, which shall commence on August 31, 2017.<sup>7</sup>

The Exchange is proposing to amend certain provisions under Article 20, Rule 13(b) to comport to recent amendments to FINRA Rule 6191<sup>8</sup> that were adopted to mitigate confidentiality concerns previously raised by commenters<sup>9</sup> regarding the publication of data

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<sup>6</sup> Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in CHX Article 20, Rule 13.

<sup>7</sup> On November 30, 2016, the SEC granted exemptive relief to the Plan Participants to, among other things, delay the publication of website data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing website publication by ninety days such that data would be published within 120 calendar days following the end of the month. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, dated November 30, 2016; see also SR-CHX-2016-21, supra note 3. The Exchange filed a proposed rule change for immediate effectiveness that, among other things, delayed the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange’s website from February 28, 2017, until April 28, 2017. See Securities Exchange Act Release No. 80227 (March 13, 2017), 82 FR 14263 (March 17, 2017) (SR-CHX-2017-05). The Exchange recently filed a proposed rule change for immediate effectiveness that delayed the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange’s website from April 28, 2017, until August 31, 2017. See Securities Exchange Act Release No. 80647 (May 10, 2017) (SR-CHX-2017-07). The SEC granted exemptive relief to the Plan Participants to delay the publication of their Appendix B data until August 31, 2017. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017.

<sup>8</sup> See Securities Exchange Act Release No. 80551 (April 28, 2017), 82 FR 20948 (May 4, 2017) (“Approval Order”); see also Securities Exchange Act Release No. 80193 (March 9, 2017), 82 FR 13901 (March 15, 2017) (SR-FINRA-2017-006); see also infra note 10.

<sup>9</sup> See Letter from William Hebert, Managing Director, Financial Information Forum (“FIF”), to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (“FIF letter”); see also Letter from Adam C. Cooper, Senior Managing Director and

related to over-the-counter (“OTC”) activity. Given that the Exchange is the DEA for a relatively small number of OTC Trading Centers, publishing their data, whether on an aggregated or a disaggregated basis, raises concerns that the identities of these Trading Centers could be determined. In order to address these concerns, pursuant to paragraph .15 of the Supplementary Materials of FINRA Rule 6191, FINRA will incorporate the firms for which the Exchange is the DEA into the anonymous, grouped masked methodology and publish OTC-wide statistics for Appendix B.I, B.II. and B.IV. data on the FINRA website.<sup>10</sup> The Exchange will publish Appendix B data with respect to any Trading Center operated by the Exchange on the Exchange website. Thus, the Exchange proposes to amend the CHX Rules as follows:

- Amend Article 20, Rule 13(b)(2)(A)(v) to modify the website publication requirement to provide that the Exchange shall make the Appendix B.I. and B.II. data collected pursuant to current Article 20, Rule 13(b)(2)(A) available to FINRA for aggregation and publication on the FINRA website pursuant to FINRA Rules.
- Amend paragraph .08 of the Interpretations and Policies of Article 20, Rule 13(b) to provide that notwithstanding the provisions of Article 20, Rule 13(b)(2) and (b)(3), with respect to data for the Pre-Pilot Period and the Pilot Period, the Exchange shall make the Appendix B.I. and B.II. data collected pursuant to Article 20, Rule 13(b)(2)(A) and the Appendix C.I. data collected pursuant to Article 20, Rule 13(b)(4)(A) available to FINRA for aggregation and publication on the FINRA website pursuant to FINRA Rules and the Exchange will publish Appendix B data with respect to any Trading Center operated by the Exchange on the Exchange website, which shall commence on August 31, 2017.

## 2. Statutory Basis

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Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (“Citadel letter”); see also SR-CHX-2016-21, supra note 3.

<sup>10</sup> On April 28, 2017, the SEC granted exemptive relief to FINRA and CHX to permit the publication of Appendix B data related to OTC trading activity on an aggregated basis using the anonymous, grouped masking methodology adopted by FINRA. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President Board and External Relations, FINRA, dated April 28, 2017; see also Approval Order, supra note 8.

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act and Section VII(A) of the Plan because it mitigates confidentiality concerns regarding the identity of certain OTC Trading Centers for which the Exchange is the DEA.<sup>13</sup>

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

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

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<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See supra note 9.

The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.<sup>14</sup>

The Exchange believes that the proposed rule change raises no novel issues. The Exchange notes that the proposed rule change is intended to address the requirement in Section VII(A) of the Plan that the data made publicly available will not identify the Trading Center that generated the data, as well as the confidentiality concerns raised in connection with the publication of Appendix B data.<sup>15</sup> The Exchange also notes that the proposal does not alter the information required to be submitted to the SEC. As such, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>17</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the

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<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> See supra note 9.

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4.

Commission shall institute proceedings under Section 19(b)(2)(B) of the Act to determine whether the proposed rule should be approved or 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 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-2017-10 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CHX-2017-10. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m.

and 3:00 p.m. 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-2017-10 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>18</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).