

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50528; File No. SR-CHX-2004-33)

October 13, 2004

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Floor Broker Network and Connectivity Charges

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 28, 2004, the Chicago Stock Exchange, Incorporated (“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 Exchange. Pursuant to Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective immediately upon filing. 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 Exchange proposes to amend its membership dues and fees schedule (the “Fee Schedule”), to bill its floor brokers for certain network and connectivity charges.

The text of the proposed rule change is available upon request at the CHX or the

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).

Commission.

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 Exchange 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 Exchange 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

CHX floor brokers and their institutional customers use the NYFIX networks to route orders and process trade-related data. These types of networks are becoming an increasingly important tool for floor brokers as the institutional brokerage community continues to increase its use of technology.

Although the Exchange currently pays the network and connectivity charges associated with NYFIX, the Exchange believes that it is appropriate for its floor brokers who use these services to begin paying for a significant percentage of these costs.⁵ Accordingly, the Exchange is proposing to rebill all but a small portion of these network and connectivity charges to the floor brokers who use this technology, based on the proportion of each firm's use of the networks during each month.

⁵ The Exchange currently rebills its on-floor member firms for other technology-related costs. See e.g., CHX Fee Schedule, Section H (Equipment, Information Services and Technology Charges)(rebilling for telephone charges, access and connection to financial information services or research and analytics providers and execution quality reports prepared by third parties).

At the same time, the Exchange would establish a separate connectivity charge credit, which would provide each floor broker firm that uses the networks with a credit of the firm's share of \$15,000.⁶ This credit allows the Exchange to pay \$15,000 of the floor broker network and connectivity charges each month and to rebill its floor broker firms for the remaining charges.⁷

These fee changes are designed to take effect on October 1, 2004.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general and furthers the objectives of Section 6(b)(4) of the Act⁹ in particular 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 result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

⁶ Each firm's share of the total \$15,000 credit would be based on its percentage of the total monthly earned credits generated by that firm. Earned credits are generated by floor broker firms based, in general terms, on the number of billable shares executed by that floor broker in a given month. See CHX Fee Schedule, Section M(2)(a). The Exchange believes that it is appropriate to calculate the connectivity charge credit in this manner to reward firms that efficiently and effectively use technology to execute trades on the Exchange.

⁷ The Exchange also is proposing to delete an obsolete provision relating to credits for E-Session trading activity. The Exchange ended its E-Session in 2001. See Release No. 34-44705 (August 15, 2001); 66 FR 43939 (August 21, 2001).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

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

The Exchange asserts that the foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(2)¹¹ thereunder because it establishes or changes a due, fee or other charge imposed by the Exchange. 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. Please include File Number SR-CHX-2004-33 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

All submissions should refer to File Number SR-CHX-2004-33. 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, 450 Fifth Street, NW, Washington, DC 20549. 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-2004-33 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).