

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51889; File No. SR-CHX-2005-18)

June 20, 2005

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit the Submission of Immediate or Cancel CHXpress Orders

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 June 3, 2005, 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 and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) 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 Exchange proposes to amend its rules to permit the submission of immediate or cancel CHXpress orders. The text of the proposed rule change is included below. Italics indicate new text.

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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)(6).

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**ARTICLE XX**

**Regular Trading Sessions**

\* \* \* \* \*

**Guaranteed Execution System**

**and Midwest Automated Execution System.**

RULE 37. (a) No change to text.

(b) No change to text.

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(11) CHXpress Orders. This section applies to the execution and display of orders through CHXpress, an automated functionality offered by the Exchange. All other rules of the Exchange are applicable, unless expressly superseded by this section.

(A) Only an unconditional round lot limit order, or a round lot limit order with an “immediate or cancel” condition, is eligible for entry as a CHXpress order. A CHXpress order may not be entered until an order has been executed on the primary market in the subject issue. A CHXpress order is good only for the day on which it is submitted and will be automatically cancelled at the end of each day’s trading session. CHXpress orders shall be identified with the designator “XPR.”

(B) No change to text.

(C) No change to text.

(D) If a CHXpress order cannot be immediately executed, it will be placed in the specialist’s book for display or later execution, in

accordance with CHX rules, unless the CHXpress order is an “immediate or cancel” order, in which case it will be automatically cancelled. A CHXpress order will be instantaneously displayed, when it constitutes the best bid or offer in the CHX book. A CHXpress order, however, will not be displayed, if its display would improperly lock or cross another ITS market. If the display of a CHXpress order would improperly lock or cross another ITS market, the CHXpress order will be automatically cancelled.

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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

The Exchange is rolling out a new, automated functionality for the handling of particular orders, called CHXpress.<sup>TM</sup> According to the Exchange, the CHXpress functionality is designed to provide additional opportunities for the Exchange’s participants to seek and receive liquidity

through automated executions of orders at the Exchange.<sup>5</sup> With a few exceptions, CHXpress orders will be executed immediately and automatically against same or better-priced orders in the specialist's book, or against the specialist's quote (when that functionality is available).<sup>6</sup> If a CHXpress order cannot be immediately executed, it will be placed in the specialist's book for instantaneous display or later execution.<sup>7</sup>

The current rules relating to CHXpress orders require that the orders be unconditional round-lot limit orders.<sup>8</sup> The Exchange now believes that it would be appropriate to also allow CHX participants to submit CHXpress orders with an "immediate or cancel" condition. According to the Exchange, allowing the submission of CHXpress orders with an "immediate or cancel" condition would reduce the amount of CHX systems capacity required to process CHXpress orders, by reducing the number of times that an order-sending firm would submit both an order and a later cancellation if the order was not immediately executed. The Exchange also believes that some order-sending firms might welcome the opportunity to submit immediate or cancel orders because of the reduced message traffic that they would otherwise be required to send to the Exchange. The Exchange therefore believes that this relatively minor change to its

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<sup>5</sup> See Securities Exchange Act Release No. 50481 (September 30, 2004); 69 FR 60197 (October 7, 2004).

<sup>6</sup> CHXpress orders will not be executed if those executions would improperly trade-through another ITS market or if trading in the issue had been halted. CHXpress orders that would improperly trade through an ITS market or that are received during a trading halt will be cancelled. If trading in an issue has been halted, CHXpress orders in the book will be cancelled.

<sup>7</sup> A CHXpress order will be instantaneously and automatically displayed when it constitutes the best bid or offer in the CHX book. See CHX Article XX, Rule 37(b)11(D). CHXpress orders, like all other orders at the Exchange, will not be eligible for automated display if that display would improperly lock or cross the National Best Bid or Offer ("NBBO"). A CHXpress order that would improperly lock or cross the NBBO will be cancelled. CHXpress orders cannot be excluded from the CHX's quote.

<sup>8</sup> See CHX Article XX, Rule 37(b)(11)(A).

rules will increase the efficiency of the operation of its systems; at the same time, the Exchange does not believe that the proposal would have any impact on the protection of investors or the public interest.

## 2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>9</sup> The Exchange believes the proposal is consistent with Section 6(b)(5) of the Act,<sup>10</sup> in that the proposal is designed to promote just and equitable principles of trade, to remove impediments, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

### 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 solicited or received.

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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder<sup>12</sup> because the proposal: (i) does not significantly affect the

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission 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 of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange satisfied the five-day pre-filing requirement. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow Exchange participants to submit an additional order type, which could increase the efficiency of their order submission and cancellation processes. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>14</sup>

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<sup>13</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

#### 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-2005-18 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-CHX-2005-18. 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 Section, 100 F Street, NE, Washington, DC 20549. 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-2005-18 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.<sup>15</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).