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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64597; File No. SR-CHX-2011-10]

### Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Orders That Are Eligible for Entry to the Exchange's Matching System

June 3, 2011.

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 May 31, 2011, the Chicago Stock Exchange, Incorporated ("Exchange" or "CHX") filed with the Securities and Exchange Commission (the "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 as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 CHX Article 20, Rule 4 which governs orders that are eligible for entry to the Exchange's Matching System. The text of this proposed rule change is available on the Exchange's Web site at (<http://www.chx.com>), at the Exchange's Office of the Secretary, 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 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

The Exchange is proposing to amend CHX Article 20, Rule 4, which governs the basic requirements for order eligibility in the CHX Matching System.<sup>5</sup> The rule is essentially broken down into two parts: (i) Basic requirements for an order to be deemed acceptable by the Matching System and (ii) order types and indications that are eligible for entry to and accepted by the Matching System. The Exchange is proposing to amend CHX Article 20, Rule 4 as it pertains to order eligibility by providing the Exchange with the ability to determine on an *order type* by *order type* basis which orders and indications are eligible for entry to the Matching System.<sup>6</sup>

Currently, all orders sent to the Matching System must meet the requirements specified in CHX Article 20, Rule 4(a) and shall be automatically rejected if they do not meet those requirements. In addition, the Matching System will only accept the order types and order indications that are defined in CHX Article 20, Rule 4(b). Currently, by rule the Matching System must accept each and every order type and order indication found in CHX Article 20, Rule 4(b). If the Exchange determines that a certain order type (or order indication) should no longer be eligible for entry into the Matching System, the Exchange would need to submit a formal rule change with the Securities and Exchange Commission ("SEC") pursuant to Section 19(b)(1) of the Act<sup>7</sup> and Rule 19b-4 thereunder,<sup>8</sup> in order to eliminate such order type from the rule.

For purposes of efficiency and flexibility in determining which orders shall be eligible for entry to the Matching System (at any point in time),

<sup>5</sup> The CHX Matching System is our core trading facility. See CHX Article 20 generally for the operation of the CHX Matching System.

<sup>6</sup> The Chicago Board Options Exchange, Incorporated ("CBOE") has similar rules that give the exchange the authority to determine which orders are eligible for its systems. See CBOE Rule 7.4 relating to obligations for orders. Under CBOE Rule 7.4(b)(iii), orders that are eligible to be placed with an Order Book Official or directly into the electronic book include *such orders as may be designated by the Exchange*. See also CBOE Rule 43.2 relating to the types of orders handled on the CBOE's Screen Based Trading System ("SBT System"). Under CBOE Rule 43.2(a), the Exchange has the discretion to determine which orders under the rule may be accommodated on the SBT System.

<sup>7</sup> 15 U.S.C. 78s(b)(1).

<sup>8</sup> 17 CFR 240.19b-4.

the Exchange is proposing to amend its rule to give the Exchange the ability to turn an order type under CHX Article 20, Rule 4(b) on or off without having to file a formal rule change with the SEC.<sup>9</sup> By making this change, the Exchange will be able to designate on an *order type* by *order type* basis which orders under CHX Article 20, Rule 4(b) will be eligible for entry to and accepted by the Matching System. Under the proposal, when the Exchange determines to make an order eligible or ineligible under the rule (e.g., turns an order on or off), the Exchange will provide notification of such change to its market participants through the issuance of a regulatory circular and identify which orders under the rule are eligible for entry to the Matching System. Such notification will be provided by the Exchange in a manner which will give reasonable advance notice to its market participants. For example, the Exchange will not designate an order type eligible or ineligible intraday.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,<sup>10</sup> and furthers the objectives of Section 6(b)(5) in particular,<sup>11</sup> in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest by giving the Exchange the ability to determine which orders under CHX Article 20, Rule 4(b) are eligible for entry to and accepted by the Exchange's Matching System.

The flexibility to turn certain order types on and off will give the Exchange the ability to accept orders into its Matching System that is consistent with order types that are eligible at other market centers. This flexibility will be especially beneficial when the Exchange implements a routing system that routes unexecuted orders to other market centers. For example, certain CHX order types defined in CHX Article 20, Rule 4(b) may not be acceptable at other exchanges and by being able to turn an order on or off will give the Exchange

<sup>9</sup> The ability to turn an order on or off is only applicable to those orders found in CHX Article 20, Rule 4(b). If the Exchange determines to introduce a new order type not found in the rule, the Exchange will submit such proposal through the rule filing process to the SEC for consideration and approval.

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<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)(iii).

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

the ability to address these non-compatibility issues without having to formally remove an order type from its rules. And as previously noted, the proposed process of determining order eligibility for purposes of the CHX Matching System is consistent with CBOE's rules that address order eligibility on its systems. Lastly, the Exchange will also provide sufficient notice of any change in order eligibility through the issuance of a regulatory circular and such notification will be done in a manner which will provide reasonable advance notice to its market participants.

#### *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.

#### *C. Self-Regulatory Organization's Statement on Comments Regarding 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 does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is similar to the rules of another exchange that have been approved by the Commission,<sup>14</sup> and will allow the Exchange to address order compatibility before it implements changes to its routing system. Therefore,

the Commission designates the proposal operative upon filing.<sup>15</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.

### **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-2011-10 on the subject line.

#### *Paper Comments*

- 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-2011-10. 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 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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-2011-10 and should be submitted on or before June 30, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-64595; File No. SR-NYSEArca-2011-32]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Establish a Gross FOCUS Revenue Fee**

June 3, 2011.

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 May 31, 2011, NYSE Arca, Inc. ("NYSE Arca" or the "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. 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 through its wholly-owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities") proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the "Schedule") to establish a new regulatory fee. While changes to the Schedule pursuant to this proposal will be effective on filing, the changes will become operative on June 1, 2011. The text of the proposed rule change is available at the Exchange, at the Commission's Public Reference

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 has satisfied the five-day pre-filing requirement.

<sup>14</sup> See *supra* note 6.

<sup>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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