

become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>15</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE has requested that the Commission waive the 30-day delayed operative date so that the proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) and Rule 19b-4(f)(6) thereunder and also become operative on the same date. NYSE believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed change is of a limited scope consistent with relief currently applicable to foreign private issuers and because it would facilitate a prompt listing of securities on NYSE that may otherwise be subject to conflicts based on the listing company's home country law or regulation.<sup>16</sup>

The Commission has determined that waiving the 30-day operative delay of NYSE's proposal is consistent with the protection of investors and the public interest because we concur with NYSE's assessment that the amendment is of a limited scope consistent with relief currently applicable to foreign private issuers and that it would facilitate a prompt listing of securities on NYSE that may otherwise be subject to conflicts based on the listing company's home country law or regulation.<sup>17</sup> Accordingly, the Commission waives the 30-day operative delay requirement and designates the proposed rule change to be operative upon filing with the Commission.

At any time within sixty days of the filing of such 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-NYSE-2011-44 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-NYSE-2011-44. 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of NYSE and on NYSE's Web site, <http://www.nyse.com>. 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-NYSE-2011-44 and should be submitted on or before October 3, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-23169 Filed 9-9-11; 8:45 am]

**BILLING CODE 8011-01-P**

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65268; File No. SR-CHX-2011-25]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Alter Cancellation Fee

September 6, 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 August 25, 2011, 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 Fees and Assessments (the "Fee Schedule"), effective September 1, 2011, relating to its order cancellation fee for Participants entering and subsequently cancelling orders under certain circumstances. The text of this proposed rule change is available on the Exchange's Web site at [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, NE., 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.

<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).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> NYSE's justification for the waiver of the 30-day operative delay was modified in part based on a telephone call with John Carey, Chief Counsel, NYSE, and Susan Petersen, Special Counsel, Commission (September 2, 2011).

<sup>17</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).

*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 proposes to amend its Fee Schedule, effective September 1, 2011, to make changes to its existing order cancellation fee. This fee change is being proposed to recoup some of the costs of administering and processing large numbers of cancelled orders while fairly allocating costs among Participants according to system use.

Beginning in January 2010, the Exchange's Fee Schedule imposed a charge for order cancellations submitted by Participants whose orders rarely are at or near the National Best Bid or Offering ("NBBO").<sup>5</sup> The purpose of the order cancellation fee was to incent Participants to submit orders which are close to the NBBO (and are therefore more likely to be executed) or compensate the Exchange for the systems and operational costs and burdens associated with handling and recording orders which rarely execute. After the imposition of the order cancellation fee, however, the Exchange observed that the number of unexecuted and displayed orders had actually increased for certain Participants. In order to avoid application of the cancellation fee, certain Participants were submitting Quotable orders (*i.e.*, those within 2 cents of the NBBO) to the CHX's Matching System, but for an extremely short duration (*e.g.*, 20 milliseconds). The Exchange observed that those firms entering the limited durational orders conducted much of their business on our trading facilities in Exchange Traded Funds ("ETFs"), Exchange Traded Notes ("ETNs") or Exchange Traded Vehicles ("ETVs"), collectively referred to as Exchange Traded Products ("ETPs"). Therefore, in August, 2010 the Exchange amended its order cancellation fee to exempt ETPs.<sup>6</sup>

Since the imposition of the order cancellation fee, and subsequent exemption of ETPs, the Exchange has observed that certain Participants have found a number of methods for avoiding the application of the order cancellation fee. For example, certain Participants submit Quotable orders to the CHX's Matching System in non-ETPs, but for an extremely short duration. In other cases, Participants submit a large

number of Quotable orders in very thinly traded securities prior to the end of the month. These and other methods utilized affect the calculated ratio for a given Participant and therefore the applicability of the order cancellation fee but rarely result in executions.

In order to recoup some of the costs of administering and processing large numbers of cancelled orders, the Exchange is proposing to alter the methodology it uses in determining whether the order cancellation fee would be imposed upon a given Participant.

In determining whether the order cancellation fee would be imposed upon a given Participant, the Exchange would utilize a formula, calculated on a daily basis, that divides the Participant's total cancelled volume in a given issue ("cvolume") by the Participant's total executed volume in that issue ("exvolume"). In those instances where a Participant's daily statistic in a given issue exceeds 30, the Exchange would impose an order cancellation fee of \$.30 on each cancellation in that issue for that day. The Exchange proposes to calculate and impose order cancellation fees by Participant, by issue, by day, and bill such fees on a monthly basis. The Exchange believes that this methodology is less subject to manipulation and will allow the Exchange to recoup some of the costs of administering and processing large numbers of cancelled orders while fairly allocating costs among Participants according to system use.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>8</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange believes that amendments to the order cancellation fee described herein should help to recoup some of the costs of administering and processing large numbers of cancelled orders while fairly allocating costs among Participants according to system use. Furthermore, these changes to the Fee Schedule would equitably allocate reasonable fees among Participants in a non-discriminatory manner by properly imposing fees on those Participants which excessively enter and subsequently cancel orders while not

imposing fees on Participants that do not engage in this resource draining behavior.

*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 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 proposed rule change is to take effect pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>10</sup> because it establishes or changes a due, fee or other charge applicable to the Exchange's members and non-members, which renders the proposed rule change effective upon filing.

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-2011-25 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-2011-25. This file

<sup>5</sup> See, SR-CHX-2010-02, Exchange Act. Rel. No. 34-61392 (January 21, 2010), 75 FR 4436 (Jan. 27, 2010).

<sup>6</sup> See, SR-CHX-2010-19, Exchange Act. Rel. No. 34-62642 (August 4, 2010), 75 FR 48404 (August 10, 2010).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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 such filing will also 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 No. SR-CHX-2011-25 and should be submitted on or before October 3, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2011-23171 Filed 9-9-11; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65269; File No. SR-CHX-2011-26]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove its Tiered Schedule of Fees and Rebates and To Lower or Remove Certain Rebates

September 6, 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 August 25, 2011, 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 Fees and Assessments (the "Fee Schedule"), effective September 1, 2011, to remove its tiered schedule of fees and rebates and lower or remove certain rebates. The text of this proposed rule change is available on the Exchange's website at [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, NE., 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 proposes to amend its Schedule of Fees and Assessments (the "Fee Schedule"), effective September 1, 2011, to remove its tiered fee and rebate structure for Participants for trade executions of single-sided orders in securities priced over one dollar during the regular trading session and to lower or remove certain rebates. These fee changes are being proposed to simplify the Exchange's Fee Schedule and increase revenue to the Exchange.

In January, 2010, the Exchange introduced a tiered schedule of fees and rebates according to which the fee imposed on Participants for removing liquidity from the Matching System (the "take fee") or credit given to Participants which display orders in the Matching System which result in trade executions (the "provide credit") varied depending on the executing Participant's Average Daily Volume ("ADV").<sup>5</sup> A Participant's ADV is determined by the number of shares it has executed as a liquidity provider in any and all trading sessions on average per trading day (excluding partial trading days) across all tapes on the trading facilities of the CHX (excluding all cross transactions) for the calendar month in which the executions occurred. Under this tiered schedule, there were three volume-based Tiers and the rate of applicable take fees and provide credits varied based upon the Tier into which a Participant falls.

In August, 2010, the Exchange altered its tiered Fee Schedule to delete those provisions which varied the take fee based upon the Participant's ADV and imposed a flat take fee of \$0.003/share across all Tapes.<sup>6</sup> The Exchange also reduced the provide credit for executions in Tape A & C securities from \$0.0026/share to \$0.0025/share for the lowest Tier of activity, from \$0.0028/share to \$0.0027/share in the middle Tier and from \$0.003/share to \$0.0029/share in the highest Tier. For Tape B securities, the provide credit was reduced from \$0.0028/share to \$0.0026/share in the lowest Tier, from \$0.003/share to \$0.0028/share in the middle Tier and from \$0.0032/share to \$0.0031/share in the highest Tier. The flat provide credit paid to CHX-registered Institutional Brokers when they represent agency orders which execute in the CHX Matching System in Tape B securities was also reduced from \$0.0032 to \$0.0031/share.

According to this proposal, the Exchange would delete those provisions of the Fee Schedule which vary the provide credit based upon the Participant's ADV. In its place, the Exchange proposes to remove the provide credit for executions in Tape A & C securities during the regular trading session and, for Tape B securities, the provide credit would be reduced to \$0.0022/share. The flat provide credit

<sup>5</sup> Through its filing on January 4, 2010, the Exchange instituted a tiered fee and rebate structure based on a Participant's ADV. See, SR-CHX-2010-01, Exchange Act. Rel. No. 34-61322 (January 11, 2010), 75 FR 2914 (Jan. 19, 2010).

<sup>6</sup> See, SR-CHX-2010-18, Exchange Act. Rel. No. 34-62650 (August 4, 2010), 75 FR 48397 (August 10, 2010).

<sup>11</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.

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

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