

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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2013-022 and should be submitted on or before July 2, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69701; File No. SR-CHX-2013-11]

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

June 5, 2012.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on May 31, 2013, 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 self-regulatory organization. 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 the Substance of the Proposed Rule Change

CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule") to amend the Order Cancellation Fee. The Exchange proposes to implement the fee change on June 3, 2013. The text of this

proposed rule change is available on the Exchange's Web site at [http://www.chx.com/sites/proposed\\_rules.htm](http://www.chx.com/sites/proposed_rules.htm), at the principal office of the Exchange, and at 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 self-regulatory organization 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 those 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 parts 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 proposes to amend Section E.8 of the Fee Schedule to change the value of the Near order multiplier ("N<sub>mult</sub>") from two (2) to four (4) for all security-types and to replace an obsolete citation. Under SR-CHX-2012-15, the Exchange adopted the current formula-based Order Cancellation Fee, which assesses a daily cancellation fee per Account Symbol,<sup>4</sup> if the order cancellation ratio exceeds a designated threshold.<sup>5</sup> In addition, the Exchange adopted security-type specific parameter values, such as the N<sub>mult</sub>, in order to permit the Exchange to make adjustments to ensure equitable application of the Order Cancellation Fee.<sup>6</sup> To this end, the Exchange noted in footnote 10 of SR-CHX-2012-15 that "changes to any of the proposed parameter values, including Order Cancellation Fee, Cancellation Ratio, Threshold Away Amount, Minimum Duration and N<sub>mult</sub>, will be made through proposed fee filings pursuant to Rule 19b-4."<sup>7</sup>

The N<sub>mult</sub>, was adopted because the Exchange recognized that, *inter alia*, Wide orders (*i.e.* orders that are less marketable), as well as Near orders (*i.e.* orders that are more marketable), can be

utilized to promote display liquidity. Thus, the purpose of the N<sub>mult</sub> is to allow the Exchange to multiply the mitigating affect of Near orders on Wide orders and by extension, the overall order cancellation ratio. Practically speaking, a higher N<sub>mult</sub>, will result in a lower order cancellation ratio and thereby allow more Wide orders to be placed before an order cancellation fee is assessed.

Based on an analysis of nearly seven months of data, the Exchange has determined that the N<sub>mult</sub> of two (2) is overly restrictive. For instance, the Exchange observed that a Participant was submitting and cancelling a significant number of Wide orders as part of a trading strategy designed to follow rapid changes to the National Best Bid and Offer ("NBBO"). When these cancellations were viewed within the totality of the trading strategy, the Exchange discovered that the Wide order cancellations were necessary to provide valuable display liquidity to the Exchange. After analyzing the trading activity of this Participant and other Participants, the Exchange determined that by increasing the N<sub>mult</sub> value to four (4) for all security-types, the application of the Order Cancellation Fee will be adequately relaxed to better promote display liquidity. Consequently, the Exchange has decided to forego some Order Cancellation Fees that would be lost by increasing the N<sub>mult</sub> in favor of promoting display liquidity.

Moreover, the Exchange proposes to replace an obsolete citation to the "Do Not Display" order display modifier with the correct citation to Article 1, Rule 2(c)(2).

The Exchange proposes to make these amendments to Section E.8 effective June 3, 2013. The formula by which the cancellation fee is derived shall continue to be calculated and made available to Participants daily, but billed after the end of the month.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>9</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 the amendment to the N<sub>mult</sub> described herein should help to recoup some of the costs of administering and processing large

<sup>23</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> A CHX "Account Symbol" is similar to the Market Participant Identifiers ("MPID") issued by the Financial Industry Regulatory Authority.

<sup>5</sup> See Securities Exchange Act Release No. 68219 (November 13, 2012), 77 FR 69673 (November 20, 2012) (SR-CHX-2012-15); see also Section E.8 of the Fee Schedule.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

numbers of cancelled orders while fairly allocating costs among Participants according to system use. In addition, 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 enter and subsequently cancel orders above a fixed threshold while not imposing fees on Participants that do not exceed this threshold.

#### *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. The proposed change to increase the  $N_{mult}$  value from two (2) to four (4) for all security-types contributes to the protection of investors and the public interest by promoting display liquidity on the Exchange. Since the Exchange does not propose to otherwise substantively modify the Order Cancellation Fee, the proposed change will not 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 with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph(f)(2) of Rule 19b-4 thereunder<sup>11</sup> 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 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 Commission shall institute proceedings 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CHX-2013-11 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-2013-11. This file number should be included on the subject line if email 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 20549-1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of 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-2013-11, and should be submitted on or before July 2, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-69700; File No. SR-NASDAQ-2013-080]

#### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Fees for the MOPB Routing Option under Rule 7018(a)**

June 5, 2013.

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 24, 2013 The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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**

NASDAQ proposes to adopt fees for the new MOPB routing option under Rule 7018(a). The Exchange has designated the proposed changes as immediately effective, and proposes to implement the changes effective with the implementation of the MOPB order on June 14, 2013. The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at 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, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the

<sup>12</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>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).