

HOSS rotation on CBOE at a price of \$3.80 was:

Exchange	Bid	Offer	Size
ISE .....	\$3.30	\$3.40	100 x 100

Because the \$3.80 price is at least \$.40 higher than the best offer<sup>6</sup> on the ISE, these trades would be obvious price errors under Exchange Rule 6.25. Pursuant to the proposed rule, 50 option contracts Customer XYZ executed against Market-Maker A would have a price adjustment to \$3.40 (obvious error trades with a CBOE Market-Maker would be adjusted to the disseminated price for the disseminated size listed on the competing exchange with the most liquidity in the options class for the preceding two months (here, ISE)). The 50 option contracts executed with BD Firm ABC would execute at \$3.80, because the adjustment would not exceed the non-CBOE Market-Makers limit price (here BD Firm ABC had a limit price of \$3.80). The adjustment involving the transaction against the Market-Maker could occur as long as the non-broker-dealer customer reported the obvious error more than 15 minutes after the erroneous transaction occurred, but before 3:30 pm CT on the same trading day.

## 2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change, as amended, will impose no 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 by the Exchange on this proposal.

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

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be 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, as amended, 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-CBOE-2005-63 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2005-63. 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. 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-CBOE-2005-63 and should be submitted on or before May 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53676; File No. SR-CHX-2006-08]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to Specialist Participant Fees and Credits

April 18, 2006.

On February 27, 2006, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend its Participant Fee Schedule to confirm that, retroactive to January 1, 2006, specialist fixed fees would not be assessed to a specialist firm with respect to securities that are temporarily assigned.<sup>3</sup> On March 2, 2006, CHX filed

<sup>9</sup> 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> On February 27, 2006, the Exchange filed with the Commission a proposed rule change to amend its Participant Fee Schedule to confirm that,

Amendment No. 1 to the proposed rule change.<sup>4</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on March 14, 2006.<sup>5</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

Under the Exchange's rules, the Committee on Specialist Assignment and Evaluation ("CSAE") is responsible for appointing participant firms to act as specialists on the Exchange.<sup>6</sup> From time to time, the CSAE may make a temporary assignment of one or more securities to a specialist firm.<sup>7</sup> Temporary assignments may be made, for example, when one specialist firm has requested and been granted the opportunity to deregister in one or more of its securities before the formal posting and assignment process has been completed.<sup>8</sup> Through this proposed rule change, as amended, the Exchange seeks to confirm, retroactive to January 1, 2006, that, when a firm has been appointed to act as specialist in a security on a temporary basis, the firm will not be charged the specialist fixed fees otherwise associated with the trading of that security.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Act,<sup>9</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>10</sup> In particular, the Commission finds that

effective immediately, specialist fixed fees would not be assessed to a specialist firm with respect to securities that are temporarily assigned. See Securities Exchange Act Release No. 53429 (March 6, 2006), 71 FR 13197 (March 14, 2006).

<sup>4</sup> In Amendment No. 1, the Exchange revised the proposal's rule text to clarify its meaning.

<sup>5</sup> See Securities Exchange Act Release No. 53433 (March 7, 2006), 71 FR 13196.

<sup>6</sup> See Article IV, Rule 6.

<sup>7</sup> See Article XXX, Rule 1.

<sup>8</sup> The Exchange represents that when a security is to be assigned or reassigned, the Exchange notifies specialist firms of the assignment opportunity and invites applications for the security. See Article XXX, Rule 1, Interpretation and Policy .01, Section II. The Exchange further represents that if more than one firm seeks the assignment, the CSAE holds meetings with the firms to review their demonstrated ability, experience, financial responsibility and other factors that are relevant to the CSAE's assignment decision. See Article XXX, Rule 1, Interpretation and Policy .01, Section II and Section III. The Exchange represents that depending upon the number of firms applying for a security and the availability of committee members and specialist firm representatives, this process could take several weeks to complete. An interim temporary assignment allows a security to continue to be traded by a specialist firm, while the process is completed.

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

<sup>10</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>11</sup> which requires that the Exchange's rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Commission believes that the suspension, retroactive to January 1, 2006, of the specialist fixed fees for specialist firms who accepted a temporary assignment of securities is appropriate because it creates an incentive for a specialist firm to act as specialist on a temporary basis pending completion of the Exchange's formal process for assigning securities to a specialist.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-CHX-2006-08), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Nancy M. Morris,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53679; File No. SR-DTC-2006-05]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Provide Centralized Billing Process Relating to the Profile Modification System in DRS

April 19, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 17, 2006, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed pursuant to Section 19(b)(3)(A)(iii) and Rule 19b-4(f)(4) thereunder so that the proposed rule change was effective upon filing with the Commission.<sup>2</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

<sup>1</sup> 15 U.S.C. 78f(b)(5).

<sup>2</sup> 15 U.S.C. 78s(b)(2).

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

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(iii) and 17 CFR 240.19(b)(4).

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to provide a centralized billing process for fees related to certain transactions in the Profile Modification System ("Profile") facility of the Direct Registration System ("DRS").

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

#### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1996 through the efforts of a joint industry working committee, DTC (1) Established procedures for DRS that enabled an investor to transfer his securities positions registered in his name and held in book-entry form on the records of the issuer maintained by the transfer agent to his broker-dealer to be held in street name at DTC and vice versa and (2) established a new category of participants, DRS limited participants, which authorized qualifying transfer agents to use certain services of DTC related to DRS.<sup>4</sup> In 2000, DTC enhanced its DRS facility by implementing Profile as a feature of DRS.<sup>5</sup> Profile is an electronic messaging system that allows a DTC participant or a DRS limited participant (*i.e.*, a transfer agent) to send instructions to transfer investors' book-entry position from one to the other.

When a DTC participant uses Profile to send instructions to a transfer agent in order to transfer an investor's book-entry positions from the transfer agent to the broker-dealer's account at DTC, a DTC participant must enter certain identifying criteria of the investor into Profile. If the submitted identifying criteria does not match the information

<sup>3</sup> The Commission has modified the text of the summaries prepared by the DTC.

<sup>4</sup> Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR-DTC-96-15].

<sup>5</sup> Securities Exchange Act Release No. 42704 (April 19, 2000), 65 FR 24242 (April 25, 2000), [File No. SR-DTC-00-04].