SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56573; File No. SR–CHX–2007–16]

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Amend Its Bylaws to Confirm That an Exchange Director Cannot Participate in the Determination of Any Matter Involving an Issuer of a Security Listed or To Be Listed on the Exchange, if the Director is a Director, Officer, or Employee of the Issuer

September 28, 2007.

I. Introduction

On July 27, 2007, 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''),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Article II, Section 7 of its bylaws to confirm that, a CHX director cannot participate in the determination of any matter involving an issuer of a security listed or to be listed on the Exchange, if the CHX director is a director, officer, or employee of the issuer. On August 10, 2007, CHX filed an amendment to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on August 24, 2007.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

CHX bylaws currently prohibit a CHX director from participating in the determination of any matter in which the CHX director is personally interested. In its filing, CHX stated that the proposal would add a clarification to its bylaws by confirming certain situations when a CHX director would be deemed ''personally interested'' in a matter involving an issuer of a security listed or to be listed on the Exchange. Specifically, under the proposal a CHX director is deemed ''personally interested'' when the CHX director is a director, officer, or employee of the issuer of the security listed or to be listed on the Exchange. Further, this proposed provision is non-exclusive and the proposed changes to the bylaws specifically state that CHX would evaluate other relationships between the CHX director and the issuer on a case-by-case basis.

III. Discussion

After a careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that CHX's bylaws currently prohibit a CHX director from participating in the determination of any matter in which the CHX director is personally interested. However, in a matter involving an issuer of a security listed or to be listed on the Exchange, CHX's bylaws do not specify under what situations the CHX director would be deemed personally interested. The proposal would specifically state that a CHX director could not participate in a matter involving an issuer listed or to be listed on the Exchange if the CHX director is a director, officer, or employee of the issuer. As noted above, this is not an exclusive list defining all situations involving an issuer and a CHX director in which a CHX director would be deemed ''personally interested'' and shall not participate in a matter pursuant to CHX bylaws. Under the proposal, CHX would evaluate other relationships between a CHX director and an issuer on a case-by-case basis. Examples of other situations the Commission would expect to involve a personal interest would include, among others, when a CHX director is serving as a consultant to an issuer, is a significant shareholder of the issuer or has some other relationship with the issuer. Moreover, CHX represented that when CHX directors recuse themselves from a decision, CHX would reflect such recusals in the minutes of the meeting in which the recusal occurs, consistent with CHX's internal written policies.

The Commission believes that it is good corporate practice for CHX to confirm in its bylaws certain situations when an Exchange director is deemed personally interested in a matter involving an issuer of a security listed or to be listed on CHX and to reflect recusals in the minutes of the meetings in which the recusal occurs. This will help to ensure that matters involving the listing and delisting of issuer's securities on CHX is considered in a fair and impartial manner which furthers the protection of investors and the public interest consistent with Section (6)(b)(5) of the Act. Based on the above, the Commission believes that the proposal is consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CHX–2007–16) as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] In Partial Amendment No. 1, the Exchange stated when a director recuses himself or herself from a decision, the Exchange would reflect that recusal in the minutes of the meeting at which the recusal occurred, in accordance with its internal written policies.

[4] *See* Securities Exchange Act Release No. 56281 (August 17, 2007), 72 FR 48708.

[5] In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56571; File No. SR–FINRA–2007–001]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Relating to the Reporting of Foreign Equity Securities to the Order Audit Trail System

September 28, 2007.

I. Introduction

On July 31, 2007, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a the National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

reporting of order information for foreign equity securities to the Order Audit Trail System (''OATS''). The proposed rule change was published for comment in the **Federal Register** on August 9, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NASD Rules 6950 through 6958 (''OATS Rules'') impose obligations on member firms to record in electronic form and report to OATS on a daily basis certain information regarding orders in Nasdaq-listed equity securities originated, received, transmitted, modified, canceled, or executed by members. FINRA integrates the OATS information with quote and transaction information from a number of different sources to create a time-sequenced record of orders, quotes, and transactions.

Currently, a member has recording and reporting obligations under the OATS Rules only with respect to orders in Nasdaq-listed equity securities. Beginning on February 4, 2008, members also will be required to record and report order information regarding all OTC equity securities, as defined in NASD Rule 6951.[4] The definition of ''OTC equity security'' encompasses essentially all foreign equity securities, except those that are listed on a U.S. national securities exchange.

After approval of NASD–2005–101, FINRA indicated that numerous member firms and industry organizations raised issues with its staff regarding the breadth of the application of the OATS Rules to foreign equity securities, as well as issues presented by the lack of U.S. symbols for many foreign securities; the programming difficulties associated with tracking trades in foreign symbols and currencies; and the fact that, for many firms, orders for foreign securities are handled by foreign affiliates that are not currently set up to record and report OATS information. In addition, FINRA noted that many trades in foreign equity securities are routed to foreign broker-dealers and executed on a foreign stock exchange. Consequently, pursuant to the OATS Rules although FINRA would receive OATS information regarding the origination and routing of such orders, FINRA would not receive execution reports, and FINRA would not have trade report data to consolidate with the OATS data.[5]

In response to these concerns, FINRA proposed to amend Rule 6952 to exclude certain orders and transactions in foreign equity securities from the OATS recording and reporting requirements. With this change members will only have to record and report order information regarding foreign equity securities only in those instances where any resulting execution is subject to the transaction reporting requirements in Rule 6620. Members would not be required to record and submit information to FINRA for orders in a foreign equity security that do not result in a trade report to FINRA.[6] FINRA will receive order information for the same transactions for which FINRA receives trade report information. FINRA believes this change strikes the appropriate balance enabling FINRA to effectively monitor its members' compliance with their order handling requirements while avoiding overly burdensome reporting requirements.

In addition, FINRA proposed to permit firms to use Form T to report required OATS information instead for reporting through the firm's normal OATS reporting channels in instances where a firm has a reporting obligation in a foreign equity security, but does not have a U.S. symbol assigned to it at the time of the trade.

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[8] which, among other things, requires that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change addresses concerns unique to OATS reporting requirements for orders in foreign equity securities in a manner consistent with the Act, and strikes an appropriate balance between ensuring that FINRA can effectively monitor members' compliance with their order handling obligations and avoiding overly burdensome reporting requirements. Members will continue to be required to record and report OATS data to FINRA in those instances where a resulting execution in a foreign equity security is subject to a transaction reporting requirement pursuant to Rule 6620(g). Therefore, FINRA will receive OATS data that it can use in connection with trade reports to effectively monitor its members' activities in foreign equity securities. However, members will be relieved of the obligation to record and report OATS data to FINRA in instances where there is not a transaction reporting requirement.

Further, the Commission believes that allowing members to report required OATS data for orders in a foreign equity security that has not been assigned a symbol at the time of the reportable event on Form T instead of through a member's normal OATS report channels will allow members to fulfill their trade reporting obligations and OATS obligations more efficiently while still ensuring the FINRA receives the information it requires to effectively monitor its members' trading activity in foreign equity securities.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–FINRA–2007–001), be, and hereby is, approved. It will become operative on February 4, 2008.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

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[3] *See* Securities Exchange Act Release No. 56199 (August 3, 2007), 72 FR 44899 (the ''Notice'').

[4] *See* Securities Exchange Act Release No. 54585 (October 10, 2006); 71 FR 61112 (October 17, 2006) (SR–NASD–2005–101); NASD *Notice to Members* 06–70 (December 2006); *see also* Securities Exchange Act Release No. 55440 (March 9, 2007), 72 FR 12852 (March 19, 2007) (SR–NASD–2007–019).

[5] Trade reporting requirements under NASD Rule 6620 do not extend to a member's transactions in foreign equity securities executed on and reported to a foreign securities exchange or transactions executed over-the-counter in a foreign country that are reported to the regulator of securities markets for that country. *See* NASD Rule 6620(g); Securities Exchange Act Release No. 55745 (May 11, 2007), 72 FR 27891 (May 17, 2007) (SR–NASD–2007–030).

[6] See the Notice at 44900–44901 for examples of trade reporting scenarios.

[7] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78o–3(b)(6).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).