

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57464; File No. SR-CHX-2008-02]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend its Bylaws Relating to the Definition of a Public Director

March 11, 2008.

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 February 26, 2008, the Chicago Stock Exchange, Inc. (“CHX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the CHX. 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 the definition of “public director,” as set forth in the CHX’s bylaws. The text of this proposed rule change is available at the CHX, 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.

#### 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 on the proposed rule change. 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’s bylaws currently define a public director as, among other things, a director (i) who is not a broker or dealer or an officer or employee of a broker or dealer; and (ii) who does not

have any other material business relationship with a broker or dealer.<sup>3</sup>

Through this proposal, the Exchange seeks to amend the definition of “public director” to clarify its scope.<sup>4</sup> Specifically, the Exchange proposes to amend the definition of a public director to only exclude persons who have the specified relationships with a broker or dealer that is registered under the Act. The Exchange believes that this change is appropriate because it would ensure that a public director is not affiliated with a U.S. broker or dealer (which must register under the Act), while allowing a public director to have a business relationship with a non-U.S. broker or dealer (which typically is not required to register under the Act). The Exchange believes that this change is consistent with the director independence qualifications used by at least one other self-regulatory organization.<sup>5</sup>

###### 2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>6</sup> The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>7</sup> because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by modifying the definition of a public director in a manner that continues to ensure the independence of a public director, while allowing a public director to have business relationships with non-U.S. entities.

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

The Exchange does not believe that the proposed rule changes will 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 either solicited or received.

<sup>3</sup> See Article II, Section 2(b) of the Exchange’s Bylaws.

<sup>4</sup> In this proposal, the Exchange also seeks to insert the word “a” in the rule text to correct an apparent typographical error.

<sup>5</sup> See Section 1(c) of the Independence Qualifications section of the Independence Policy of the NYSE Euronext Board of Directors.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change 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 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-2008-02 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-CHX-2008-02. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.

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

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

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-2008-02 and should be submitted on or before April 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57458; File No. SR-CHX-2007-24]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to the Handling of Clearly Erroneous Transactions

March 10, 2008.

#### I. Introduction

On October 4, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Exchange Rules 10 and 11 of Article 20 regarding the handling of "clearly erroneous" and other transactions and to make corresponding changes to Article 2, Rule 5. On January 7, 2008, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on January 18, 2008.<sup>3</sup> The Commission received no comment letters on the proposal, as amended by Amendment No. 1. On February 29, 2008, the Exchange submitted Amendment No. 2 to the proposed rule change. This order provides notice of Amendment No. 2 and approves the

proposed rule change, as modified by Amendments No. 1 and 2, on an accelerated basis.

#### II. Discussion

Currently, CHX Article 20, Rules 10 and 11 allow the Exchange to cancel a trade, or modify the terms of a trade, when its terms are determined to be "clearly erroneous" or when other circumstances (including a CHX systems problem) require that that action be taken for the maintenance of a fair and orderly market or the protection of investors and the public interest.<sup>4</sup> As a result of the experience gained through the operation of these rules, the Exchange now proposes several changes to the rules' provisions.

First, the Exchange seeks to amend Article 20, Rule 10 by extending, from 15 to 30 minutes, the time for filing an initial written request for review of a potentially "clearly erroneous" trade. As part of this change, the Exchange would eliminate the requirement that a participant notify the Exchange by telephone of its intent to seek review but would retain the requirement that the request must be in writing.

Second, the Exchange would establish in Article 20, Rule 10 specific thresholds for determining whether a transaction is eligible for review under this rule. Under this proposal, a trade would be found to be eligible for review if: (i) For a trade where the price per share is less than \$1.00, the execution price is 20% or more away from the midpoint of the national best bid and offer ("NBBO"); or (ii) for a trade where the price per share is equal to or greater than \$1.00, the execution price is 10% or more away from the midpoint of the NBBO.

Third, the Exchange proposes to amend Article 20, Rule 10 to eliminate one of the two levels of appeal that can be taken from an initial Exchange determination that the terms of a trade should be modified or that the trade should be cancelled. Under the current Article 20, Rule 10, the Exchange's initial decision may be appealed to a subcommittee of the Committee on Exchange Procedure and the subcommittee's decision may be appealed, in turn, to the full Committee on Exchange Procedure.<sup>5</sup> The Exchange

proposes to eliminate the appeal to the full Committee. Thus, the decision of this subcommittee will be the final Exchange action on the matter. The Exchange also proposes to permit an appeal of an eligibility review under Article 20, Rule 10(b).<sup>6</sup>

Finally, the proposed change would amend Article 20, Rule 11 to give the Exchange the discretion, in situations where it is acting on its own initiative to respond to systems disruptions or extraordinary market conditions or other circumstances, to determine that the number of affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. The Exchange noted that this determination is intended to provide certainty to participants whose transactions were affected by decisions in these unusual situations.<sup>7</sup>

#### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 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-2007-24 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-CHX-2007-24. 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

any appeal to the subcommittee. The Exchange also proposed changes to Article 2, Rule 5, to ensure that this rule language is consistent with the changes proposed in Article 20, Rule 10 and made other minor adjustments to the rule text.

<sup>6</sup> See Amendment No. 2.

<sup>7</sup> The Exchange noted that other markets have included a similar provision in their rules. See Nasdaq Rule 11890(c)(1); NYSE Arca Rule 7.10(c)(2).

<sup>4</sup> See CHX Rules, Article 20, Rule 10 ("Handling of Clearly Erroneous Transactions") and Rule 11 ("Systems Disruptions and Malfunctions").

<sup>5</sup> A subcommittee of the Committee on Exchange Procedure is composed of members of the full Committee on Exchange Procedure. The Exchange also proposed to make corresponding changes to Article 2, Rule 5, relating to appellate rights arising from subcommittee decisions, to confirm that the decision of the subcommittee is final and that the Exchange's initial decision is not stayed pending

<sup>8</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> Securities Exchange Act Release No. 57137 (January 14, 2008), 73 FR 3497.