Halt Auction would commence five minutes prior to such Halt Auction and with respect to an IPO Auction would commence fifteen minutes plus a short random period prior to such IPO Auction. Any Eligible Auction Orders associated with an IPO or Halt Auction would be queued until the end of the Quote-Only Period at which time they would be eligible to be executed in the associated auction. The Exchange proposes to require that all orders associated with IPO or Halt Auctions be received prior to the end of the Quote-Only Period in order to participate in the auction. The Exchange would permit Eligible Auction Orders associated with an IPO or Halt Auction to be cancelled at any time prior to execution. Coinciding with the beginning of the Quote-Only Period for a security, the Exchange further proposes to disseminate and update the BATS Auction Feed associated with the IPO or Halt Auction every five seconds thereafter via electronic means.

III. Discussion

After careful consideration of the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. The Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act, in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

BATS notes that the current proposal is integral to its listing rules, and would provide companies with an alternative venue to list and trade securities in an orderly fashion at the open and close of trading, as well as in the context of an IPO or halted trading in the security. The Exchange believes that operation of Exchange Auctions for securities listed on the Exchange will assist in the price discovery process and help to ensure a fair and orderly market for securities listed on the Exchange.

The Commission notes that the Exchange has proposed to operate Exchange Auctions as a single price Dutch auction to match buy and sell orders at the price at which most shares would execute. The Exchange has designed Exchange Auctions to be conducted within specified periods of time and in accordance with specified order entry, cancellation, pricing, and execution priority parameters. The Exchange may adjust the timing of or suspend Exchange Auctions with prior notice to Members whenever, in the judgment of the Exchange, it would be required by the interests of a fair and orderly market. The Exchange also has designed the BATS Auction Feed to disseminate information regarding the current status of price and size information related to auctions being conducted. The Exchange has represented that the BATS Auction Feed will be available to data recipients equally and without charge.

The Commission believes that the proposal is designed to assist the price discovery process, should help minimize price volatility, and should promote a fair and orderly market for securities listed on the Exchange. The Commission believes that the BATS Auction Feed should enhance transparency and promote competition among orders by facilitating the public dissemination of current trading interest in a particular security during Exchange Auctions.

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–BATS–2011–018) be, and hereby is, approved.

Kevin M. O’Neill
Deputy Secretary

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations;
Chicago Stock Exchange, Inc.; Notice
and Order Granting Accelerated
Approval to Proposed Rule Change, as
Modified by Amendment No. 1,
Regarding the Submission of Clearing-
Related Information for Trades
Executed Otherwise Than on the
Exchange

October 24, 2011.

I. Introduction

On July 7, 2011, 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, a proposed rule change regarding the submission of clearing-related information for trades executed otherwise than on the CHX. The proposed rule change was published for comment in the Federal Register on July 26, 2011. The Commission received one comment in support of the proposal. 2 CHX filed Amendment No. 1 to the proposed rule change on October 24, 2011. 3 This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

The text of the proposed rule change, as modified, is reproduced below. Additions are italicized, deletions are [bracketed].

Rules of Chicago Stock Exchange, Inc.

Article 1.
Definitions and General Information

Rule 1. Definitions

Whenever and whenever used in these Rules, unless the context requires otherwise, the following terms shall have the respective meanings ascribed to them below:

(a)—(dd) Unchanged

(ee) "Clearing Participant" means a Participant which has been admitted to membership in a Qualified Clearing Agency pursuant to the provisions of the Rules of the Qualified Clearing Agency.

5 See letter to Elizabeth M. Murphy, Secretary, Commission, from Christopher Meyer, Chief Compliance Officer, E*Trade Capital Markets, LLC dated August 16, 2011.
6 See Amendment No. 1, dated October 24, 2011.

Book executions occurring while orders are collected. See Notice supra note 3, at 76 FR 56252. 13 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).
Interpretation and Policies:

.01 An Institutional Broker making a submission pursuant to this rule must obtain documentary evidence of a non-Exchange trade execution no later than the close of business on the day of the trade and submit such documentary evidence to the Exchange in a format acceptable to it and within such timeframe that the Exchange shall designate, but in no event later than T+1.

.02 An Institutional Broker entering a non-tape, clearing-only submission shall be responsible for ensuring that all clearing information is accurate and complete prior to its submission.

.03 Post-trade cancellations and corrections: price, volume and security changes. No later than T+1, Exchange operations personnel may cancel a clearing submission and enter a new corrective submission if the Institutional Broker which entered the original submission provides documentary evidence that the original trade execution was cancelled and re-entered at the same price, quantity and/or security of the corrective clearing submission. Exchange operations personnel may also correct a clearing submission if it was erroneously entered on terms which differed from the reported trade execution, if provided with documentary evidence of the original trade execution. Exchange operations personnel may also enter a clearing submission which the Institutional Broker failed to enter or which was not processed due to systems error, if provided with documentary evidence of the original trade execution. In all cases, the documentary evidence must be provided to the Exchange Operations personnel prior to entry of the corrective submission. In extraordinary circumstances, corrective submissions can be made after T+1 subject to the approval of an officer of the Exchange.

.04 Post-trade cancellations and corrections: Clearing Participants changes. Either Exchange Operations personnel or Institutional Brokers may cancel a clearing submission and enter a new corrective submission to correct a misidentification of the Clearing Participant, by no later than T+1. Before the corrective submission is made, the Institutional Broker must obtain documentary evidence of the misidentification of the Clearing Participant, and provide it to the Exchange Operations personnel if the latter are making the corrective submission. In extraordinary circumstances, corrective submissions can be made after T+1 subject to the approval of an officer of the Exchange.

The Exchange is proposing to adopt Rule 6 to Article 21 to set forth the terms upon which the Exchange will submit information for clearance and settlement to the National Securities Clearing Corporation, ("NSCC") and to amend Article 1, Rule 1 to add updated definitions and Article 21, Rule 1 to delete definitions. Rule 6 provides for the submission of clearing related information to a Qualified Clearing Agency i.e., NSCC. The CHX submits clearing information to NSCC through
Second, an Institutional Broker may execute or instruct a third party broker-dealer to execute a cross-transaction in the OTC market and report the transaction to a Trading Reporting Facility ("TRF") using the Institutional Broker’s trading symbol or the symbol of the Institutional Broker’s clearing firm when reporting the trade to the Consolidated Tape. The Institutional Broker may then enter the transaction information in Brokerplex and transfer the positions from its own trading account (or the account of its clearing firm) to the accounts of the ultimate beneficiaries of the trade. Once all components of the transaction are properly allocated, the information in Brokerplex is forwarded to the NSCC via RIO for clearance and settlement.

Third, transactions may be executed on another trading center by a third party broker-dealer, which then utilizes an Institutional Broker as its agent for handling the allocation of the clearing information. These third party transactions may include both cross-transactions executed, broker-dealer B may step out of the transaction in favor of broker-dealer C. The Institutional Broker making the clearing submission would be responsible for substituting the various parties based upon instructions of those parties or their agents. Clearing information for third-party cross-trades and single-sided purchases or sales is then recorded in Brokerplex and submitted to NSCC in the same manner as if the trades had been executed by the Institutional Broker.

Rule 6(a) requires Institutional Brokers that make these submissions to have an agreement with the Clearing Participant in whose name the entries are submitted. The agreement must authorize the Institutional Broker to act on behalf of the Clearing Participant. The Institutional Broker must file copies of these agreements with the Exchange. The Exchange has developed functionality within the Brokerplex application to validate that such agreements are in place before an Institutional Broker is able to submit clearing entries to Brokerplex. The Exchange will monitor clearing submissions to ensure that the Institutional Brokers involved in these transactions have the appropriate agreements in place and will take disciplinary action to enforce this requirement.

CHX’s system for making clearing submissions does not provide a fully-automated comparison feature. CHX states that its rules provide procedural safeguards to ensure that the manual comparison is valid. Furthermore, a Participant is prohibited from using a non-tape, clearing-only submission for the purpose of effecting a transaction required to be trade reported which has not been trade reported or for reporting a trade for regulatory purposes.

Proposed Interpretation and Policy .01 to Rule 6 will require that an Institutional Broker submitting an entry for a transaction executed otherwise than on the Exchange obtain documentary evidence of the non-Exchange trade executed other than the close of trading and submit such evidence to the Exchange in a format acceptable to it and within such requirements.
The Exchange plans to add a riskless principal identifier to these records. Proposed Interpretation and Policy .03 governs post-trade cancellations and corrections of clearing-related information entered pursuant to proposed Rule 6. 21 It would permit Exchange personnel, generally no later than T+1, to cancel a clearing submission and enter a corrected submission if the Institutional Broker that entered the original submission provides documentary evidence that the trade was cancelled in the marketplace in which it was originally executed and re-entered at the price, quantity, and/or security of the corrected clearing submission. Exchange operations personnel may also enter a clearing submission which an Institutional Broker failed to enter 22 or which was not processed due to a systems error, if operations personnel have been provided documentary evidence of the original trade execution. Proposed Interpretation and Policy .04 would permit either Exchange Operations personnel or Institutional Brokers to cancel a clearing submission and enter a new corrective submission to correct a misidentification of the Clearing Participant, generally, by no later than T+1. Before the corrective submission is made, the Institutional Broker must obtain documentary evidence of the misidentification of the Clearing Participant, and provide it to the Exchange Operations personnel if the latter are making the corrective submission. Authorizing Exchange personnel to make these cancellations and corrections should prevent unnecessary and unwanted failures to clear and should help ensure transactions settle in an accurate manner.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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. Please include File No. SR–CHX–2011–17 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 No. SR–CHX–2011–17. 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 related to the proposed rule changes 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 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 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 No. SR–CHX–2011–17 and should be submitted on or before November 21, 2011.

IV. 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 exchange, and, in particular, Section 6(b)(5) of the Act, 24 which, among other things, requires that

21 CHX states that the need to correct a clearing record is typically identified by an order-sending firm or Institutional Broker where there is a clearing break and the parties are looking for a position which does not show up or they have a position they did not expect to have. See Amendment No. 1 at 17.
22 If an Institutional Broker fails to enter the clearing submission within the timeframes specified in the Rule, it will be in violation of the rule.
the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 believes that the Exchange’s proposal will facilitate the clearance and settlement of complex transactions that occur otherwise than on the CHX.

Rule 6 sets forth the requirements for Institutional Brokers who utilize CHX’s systems to provide a clearance service for transactions executed otherwise than on the Exchange.\(^25\) The filing permits Institutional Brokers to provide a clearing service by entering information with respect to trades that have occurred in multiple venues in Brokerplex for submission to NSCC. Proposed Rule 6(a) requires Institutional Brokers to have an agreement with the Clearing Participant in whose name the entries are made and to file a copy of the agreement with the Exchange, which should ensure Institutional Brokers have the appropriate authorization to act on behalf of a particular Clearing Participant. The Exchange will provide a functionality within Brokerplex to validate that an agreement is in place before an Institutional Broker may submit clearing entries in Brokerplex. CHX requires Clearing Participants to sign a clearing agreement accepting responsibility for non-Exchange transactions submitted to NSCC through an Institutional Broker.\(^26\) CHX will distinguish non-CHX trades from CHX-trades in its submissions to NSCC.\(^27\) These requirements should increase transparency regarding the clearing service that Institutional Brokers provide for non-exchange trades and should enable the Exchange and other regulators to surveil the clearing activity to ensure that Institutional Brokers and Clearing Participants are acting consistent with the provisions of the rule.

In addition, CHX has represented that it will develop an automated system for the submission of clearing information such that trades for which clearing information has been submitted are locked-in before the clearing information is submitted to NSCC. Locked-in trades eliminate the risk to NSCC that after a clearing entry has been submitted to it, one of the parties to the transaction will disavow the transaction. Further, for submissions pursuant to proposed Rule 6(a), the Institutional Broker must make clearing entries involving substitution of parties within three hours of the execution of the transaction, and provide documentation to the Exchange of a non-Exchange execution no later than the close of business on the day of the trade. These aspects of the rule should assist the Exchange as well as other regulators to more effectively monitor this clearing activity. The Commission urges CHX to continue to review the amount of time Institutional Brokers have to provide clearing information to CHX.

Rule 6(b) will permit Institutional Brokers to submit non-tape, clearing only entries for riskless principal transactions. Institutional Brokers must provide the Exchange records to demonstrate that the transactions were riskless principal transactions. The Institutional Broker must make all clearing entries within twenty minutes of execution of the transaction, or, in the case of multiple transactions, of the last component trade execution, and provide to the Exchange documentation of a non-Exchange trade execution no later than the close of business on the day of the trade. These aspects of the rule should assist the Exchange as well as other regulators in more effectively monitoring clearing activity.

Furthermore, the Commission notes that, with respect to either category of submissions of clearing information for trades executed otherwise than on the Exchange, CHX’s proposed rule fords Participants from using CHX’s clearing submission services to avoid any regulatory trade reporting obligations.\(^28\) The Commission understands that CHX will share data regarding its clearing submissions for non-Exchange trades with FINRA in order to assist FINRA in supervising the over-the-counter component of this activity.\(^29\) The rule should provide CHX with additional information and documentation regarding the clearing activities of Institutional Brokers and thus enhance CHX’s ability to surveil non-tape, clearing-only entries related to transactions executed otherwise than on the Exchange.

Finally, the rule permits Exchange personnel, under prescribed circumstances, to cancel and/or correct clearing submissions and codifies that Institutional Brokers are responsible for ensuring that all clearing information is complete and accurate for non-tape, clearing-only submissions. The Commission believes that the limitations regarding changes to clearing entries are appropriate, however, the Commission expects CHX to monitor the changes made by Exchange personnel to ensure that they are only making changes that are permitted by the rule and only when they have the appropriate documentation indicating the need for the change to the clearing records. The limitations in the rule should help avoid abuse of the process by Institutional Brokers.

The Commission finds good cause to approve the filing, as modified by Amendment No. 1, before the 30th day after the date of publication in the Federal Register, because the changes made in Amendment No. 1 clarify the activity that will be permitted under the rule and add limitations to make the rule more effective. As discussed, NASDAQ provides a similar service for its members.

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,\(^30\) that the proposed rule change (SR–CHX–2011–17), as amended, be, and hereby is, approved, on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.\(^31\)

Kevin M. O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]


October 27, 2011.

It appears to the Securities and Exchange Commission that there is a