

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>22</sup>

J. Lynn Taylor,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No.34-54222; File No. SR-CHX-2006-21]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Participant Fees and Credits

July 26, 2006.

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 July 11, 2006, 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 and II below, which Items have been prepared by CHX. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

CHX proposes to amend its Participant Fee Schedule (the "Fee Schedule") to clarify monthly applicability of the Exchange's Self-Regulatory Organization Fee ("SRO Fee"). The text of this proposed rule change is available on the Exchange's Web site at ([http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm)), at the principal office of the Exchange, 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, CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any

comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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

Through this proposal, the Exchange seeks to clarify monthly applicability of the Exchange's SRO Fee. The Exchange's Fee Schedule has for many years contained a provision establishing an SRO Fee of \$100. Prior to the Exchange's demutualization in February of 2005, this provision of the Fee Schedule indicated that the SRO Fee was "\$100 per member and member organization per month."

In connection with the demutualization rule changes, this provision was modified to delete the "per month" reference. Despite the deletion of the "per month" reference, the Exchange did not intend to modify its long-standing practice of assessing the SRO Fee on a monthly basis. Indeed, since the provision was modified in February of 2005, the Exchange has consistently billed each CHX participant for the \$100 SRO Fee on a monthly basis and the Exchange intends to continue this monthly assessment. To eliminate any confusion, however, the Exchange is submitting this proposed rule change to the Fee Schedule to reincorporate the "per month" language.

##### 2. Statutory Basis

CHX believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act<sup>5</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

CHX does not believe that the proposed rule change will result in any 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

Written comments were neither solicited nor received.

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

The foregoing proposed rule change establishes or changes a due, fee or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(2) thereunder.<sup>7</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed 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.

#### 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 No. SR-CHX-2006-21 on the subject line.

##### Paper Comments

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

All submissions should refer to File Number SR-CHX-2006-21. 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

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

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

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

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

Room. Copies of such filing also will be available for inspection and copying at the principal office 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-2006-21 and should be submitted on or before August 23, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54221; File No. SR-NASDAQ-2006-005]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change and Amendments No. 1 and 2 There to Modify Nasdaq's Delisting Procedures To Conform to Recent Amendments to Commission Rules Regarding Removal From Listing and Withdrawal From Registration

July 26, 2006.

#### I. Introduction

On April 4, 2006, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 Nasdaq delisting procedures to conform to recent amendments to Commission rules regarding removal from listing and withdrawal from registration. On May 5, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On May 17, 2006, Nasdaq filed Amendment No. 2 to the proposed rule change.<sup>4</sup> The proposed rule change, as amended, was published for comment in the **Federal**

**Register** on June 15, 2006.<sup>5</sup> No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

#### II. Description of the Proposed Rule Change

Section 12 of the Act<sup>6</sup> and Rule 12d2-2 thereunder<sup>7</sup> ("SEC Rule 12d2-2") govern the process for the delisting and deregistration of securities listed on national securities exchanges. Recent amendments to SEC Rule 12d2-2 ("amended SEC Rule 12d2-2") and other Commission rules require the electronic filing of revised Form 25 on the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system by exchanges and issuers for all delistings, other than delistings of standardized options and securities futures, which are exempted.<sup>8</sup>

Nasdaq proposes to revise Nasdaq Rules 4480, 4804, 4805, 4806, 4807, 4808, 4809, and adopt Interpretative Material 4800 ("IM 4800") with respect to delisting procedural requirements as mandated by amended SEC Rule 12d2-2.

In the case of exchange-initiated delistings, amended SEC Rule 12d2-2(b) states that a national securities exchange may file an application on Form 25 to strike a class of securities from listing and/or withdraw the registration of such securities, in accordance with its rules, if the rules of such exchange, at a minimum, provide for:

- (i) Notice to the issuer of the exchange's decision to delist its securities;
- (ii) An opportunity for appeal to the exchange's board of directors, or to a committee designated by the exchange's board of directors; and
- (iii) Public notice of the national securities exchange's final determination to remove the security from listing and/or registration, by issuing a press release and posting notice on its Web site. Public notice must be disseminated no fewer than 10 days before the delisting becomes effective pursuant to amended SEC Rule 12d2-2(d)(1), and must remain posted on its Web site until the delisting is effective.

Nasdaq's rules currently provide the requisite issuer notice as well as an opportunity for appeal to a committee designated by the Nasdaq's board of

directors.<sup>9</sup> Nasdaq proposes to adopt IM 4800 to incorporate the requirements of amended SEC Rule 12d2-2. Proposed IM 4800 sets forth the procedures Nasdaq would follow to remove a security from listing. Under proposed IM 4800, Nasdaq would provide public notice of its final determination to remove a security from listing by issuing a press release and posting a notice on its Web site. Nasdaq would disseminate the public notice no fewer than 10 days before the delisting becomes effective. The public notice would remain on Nasdaq's Web site until the delisting is effective. After the public notice, Nasdaq would file a Form 25 with the Commission and would promptly provide a copy of such form to the issuer.

With respect to issuer-initiated delisting procedures, Nasdaq proposes to amend Nasdaq Rule 4480<sup>10</sup> to require the issuer to:

- (i) Comply with all requirements of amended SEC Rule 12d2-2(c);
- (ii) Comply with all applicable laws in effect in the state in which it is incorporated and with applicable Nasdaq rules;
- (iii) Provide notice to Nasdaq no fewer than 10 days before the issuer files the Form 25 with the Commission, including a statement of the material facts relating to the reasons for delisting;
- (iv) Contemporaneous with providing notice to Nasdaq, publish notice of its intent to delist, along with its reasons, via a press release and on its Web site, if it has one (any notice provided on the Web site must remain available until the delisting is effective); and
- (v) Provide a copy of the Form 25 to Nasdaq simultaneously with the filing of the Form 25 with the Commission.

Nasdaq would provide notice on its Web site of the issuer's intent to delist as required by amended SEC Rule 12d2-2(c)(3).

Nasdaq also proposes that an issuer seeking to voluntarily delist a class of securities that has received notice from Nasdaq that the issuer fails to comply with one or more requirements for continued listing, or is aware that it is below such continued listing requirements notwithstanding that it has not received such notice, must disclose this fact (including the specific continued listing requirements that it is below) in: (i) Its statement of all material facts relating to the reasons for withdrawal from listing provided to Nasdaq, along with written notice of its

<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> Amendment No. 1 replaced the original proposed rule change in its entirety.

<sup>4</sup> In Amendment No. 2, Nasdaq amended the implementation date of the proposed rule change to the later of Commission approval or the date Nasdaq begins to operate as a national securities exchange.

<sup>5</sup> See Securities Exchange Act Release No. 53964 (June 8, 2006), 71 FR 34656.

<sup>6</sup> 15 U.S.C. 78l.

<sup>7</sup> 17 CFR 240.12d2-2.

<sup>8</sup> See Securities Exchange Act Release No. 52029 (July 14, 2005), 70 FR 42456 (July 22, 2005).

<sup>9</sup> See Nasdaq Rules 4803(a), 4805, 4806, 4807, 4808, and 4809.

<sup>10</sup> Nasdaq proposes to renumber Nasdaq Rule 4480 to Nasdaq Rule 4380.