SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54495; File No. SR–CHX–2006–27]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Retroactive Application of Participant Fees and Credits

September 25, 2006.

On August 10, 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'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make retroactive to February 9, 2005, the trading permit fee due to the Exchange if a CHX participant's trading permit is cancelled intra-year. The proposed rule change was published for comment in the **Federal Register** on August 23, 2006.[3] The Commission received no comments regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which requires that the rules of an exchange provide for the equitable allocation or reasonable dues, fees and other charges among its members and other persons using its facilities.

The proposal to permit CHX participants to pay the Exchange the lesser of $2,000 or the remaining balance of the annual trading permit fee if cancelled intra-year originally became effective on October 24, 2005.[6] The Exchange intended but did not request retroactive application of this amended Fee Schedule when the rule change was originally filed with the Commission. The Exchange believes that CHX participants who terminated their permits intra-year are entitled to a refund. Further, the Exchange has been

reserving funds for such remuneration. The Commission therefore finds that it is appropriate to make retroactive to February 9, 2005, the Fee Schedule change as described above.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CHX–2006–27) be, and it hereby is, approved.

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

Nancy M. Morris,
Secretary.
[FR Doc. E6–16114 Filed 9–29–06; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54487; File No. SR–FICC–2005–17]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change Relating to Assumption of Blind Brokered Fails by Its Government Securities Division

September 22, 2006.

I. Introduction

On September 30, 2005, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on November 28, 2005, amended proposed rule change SR–FICC–2005–17 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on March 8, 2006.[2] On August 15, 2006, FICC filed an amendment to the proposed rule change.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The purpose of the proposed rule change is to clarify the practice of the Government Securities Division (''GSD'') of FICC of assuming certain blind brokered repo fails and of obtaining financing as necessary in connection with such assumptions. The settlement of the start leg of a same-day starting repo has always been and continues to be processed outside of the

GSD. In the evening of the day of a same-day starting brokered repo, FICC will assume responsibility from the broker for the settlement of such start leg if the repo dealer has not delivered securities to the broker to start the repo (*i.e.*, the start leg has failed). This may involve FICC's receipt of securities from the repo dealer for redelivery to the reverse repo dealer or FICC's netting or pairing off of the settlement obligation arising from the start leg against the settlement obligation arising from the close leg of the same or another repo.

FICC will also assume a blind brokered repo fail that arises in the close leg of a blind brokered repo transaction. For example, if the start leg of the transaction settles outside of FICC in normal course but one side of the close leg does not compare (for any reason that would cause a trade to not compare such as the erroneous submission of trade data), the broker will have a net settlement position at FICC rather than netting flat. If that transaction fails to settle, FICC will assume the broker's fail.

FICC assumes the fails in these instances in order to decrease risk to itself and to its members.[4] By assuming the fail, FICC removes the broker, which acts as an intermediary and which expects to net out of every transaction and not have a settlement position, from the settlement process.[5] FICC is therefore adding a provision to its Rules to expressly provide for its practice of assuming blind broker repo fails and therefore to make its Rules consistent with its current and longstanding practice.[6]

In the assumption of such broker fails, the need for financing might arise, such as in the situation where the repo dealer delivers securities near the close of the securities Fedwire and the broker is unable to redeliver them to the reverse repo dealer. The GSD's Rules already contain a provision, Section 8 of Rule 12, that addresses the GSD's need to obtain financing in general. This provision contemplates the need for financing in order to allow the GSD to facilitate securities settlement generally. It is important to note that such financing is part of the GSD's normal course of business, and the GSD's ability to obtain such financing is necessary for

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[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] *See* Securities Exchange Act Release No. 54323 (August 16, 2003), 71 FR 49495.
[4] 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).
[5] 15 U.S.C. 78f(b)(4).
[6] *See* Securities Exchange Act Release No. 52815 (November 21, 2005), 70 FR 71572 (November 29, 2005) (SR–CHX–2005–31).

[7] 15 U.S.C. 78s(b)(2).
[8] 17 CFR 200.30–3(a)(12).
[1] 15 U.S.C. 78s(b)(1).
[2] Securities Exchange Act Release No. 53396 (March 2, 2006), 71 FR 11694.
[3] The August 15, 2006, amendment, as noted below, is not substantive and did not require republication of notice.

[4] FICC has engaged in the practice of assuming broker fails since the inception of its blind brokered repo service.
[5] FICC filed its August 15, 2006, amendment to the proposed rule change to make explicit its policy that in all cases where FICC assumes a fail from a broker, the counterparty remains responsible for its obligations with respect to the transaction.
[6] Specifically, new Section 5, ''Assumption of Blind Brokered Fails,'' is being added to GSD Rule 19.

it to be able to complete securities settlement. Section 8 of Rule 12 provides that if FICC deems it appropriate to obtain financing to provide its securities settlement services, FICC may create security interests in eligible netting securities delivered by a netting member in order to obtain such financing. The provision requires that members not take any action to adversely affect this process. The provision also states that such security interests may be created to obtain financing in an amount greater than the obligation of a member to FICC relating to such eligible netting securities. Thus, clearing fund securities may also be used to collateralize such financing. Also, Section III.C of the GSD's fee structure provides the formula that the GSD uses to charge members for the cost of any financing obtained by GSD.

FICC interprets Section 8 of Rule 12 and Section III.C. to apply to financing that might arise because of FICC's assumption of blind brokered fails. FICC does not believe that actual changes to this rule is necessary for this clarification.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[7] The Commission finds that FICC's proposed rule change is consistent with this requirement because the change, which is designed to clarify FICC's practice of assuming failed blind brokered repo transactions, will facilitate the settlement of blind brokered repo fails and as such will facilitate the prompt and accurate clearance and settlement of these transactions. By facilitating the settlement of these fails, FICC will also reduce settlement risk, which will better enable it to assure the safeguarding of securities and funds which are in FICC's custody or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

[7] 15 U.S.C. 78q–1(b)(3)(F).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change, as amended, (File No. SR–FICC–2005–17) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,
Secretary.
[FR Doc. E6–16109 Filed 9–29–06; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54500; File No. SR–NASDAQ–2006–025]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Regarding Fees for the New Nasdaq Workstation and Weblink ACT

September 25, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2006, The NASDAQ Stock Market LLC ("Nasdaq") 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 prepared by Nasdaq. Nasdaq amended the proposed rule change on September 20, 2006.[3] Pursuant to Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2)[5] thereunder, Nasdaq has designated the proposed rule change as establishing or changing a member due, fee, or other charge, which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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[8] 15 U.S.C. 78s(b)(2).
[9] 17 CFR 200.30–3(a)(12).
[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] *See* Amendment No. 1. The effective date of the original proposed rule change is August 1, 2006 and the effective date of the amendment is September 20, 2006. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on September 20, 2006, the date Nasdaq filed Amendment No. 1. *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).
[4] 15 U.S.C. 78s(b)(3)(A)(ii).
[5] 17 CFR 240.19b–4(f)(2).

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

Nasdaq proposes to modify fees for the New Nasdaq Workstation ("NNW") and Weblink ACT. Nasdaq will implement the proposed rule change on August 1, 2006. The text of the proposed rule change is available at the Commission's Public Reference Room, at Nasdaq, and at *http:// www.nasdaq.com.*[6]

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq is amending Rule 7015 to change fees associated with its web-based New Nasdaq Workstation ("NNW") and Weblink ACT products. Since the NNW's inception as a replacement for the Nasdaq Workstation II ("NWII") last year, the fee for the NNW has been $435 per user per month, plus $90 per month for data feeds included with the NNW, for a total cost of $525 per user per month. Nasdaq is now reducing the fee to $475 per user per month, including the cost of the data feeds provided with the NNW. The change is designed to enhance the competitiveness of the NNW in contrast to front-end applications provided by broker-dealers and service bureaus, and, as discussed below, also reflects decreasing demand for the product.

Weblink ACT, also referred to as Nasdaq Workstation Post Trade, is a Web-based application used for

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[6] Changes to the proposed rule text are marked to the rule text that appears in the electronic Nasdaq Manual found at *www.complinet.com/nasd.com* as further amended on an immediately effective basis by SR–NASDAQ–2006–024. Because the Nasdaq Workstation and Weblink ACT are also used with respect to the quotation, execution, and trade reporting systems operated by The Nasdaq Stock Market, Inc. ("Nasdaq Inc.") with respect to non-Nasdaq securities, Nasdaq Inc. is also filing these proposed rule changes as a modification to NASD Rule 7010(f). *See* SR–NASD–2006–094.