

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57264; File No. SR-CHX-2007-27)

February 4, 2008

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving a Proposed Rule Change to Eliminate a Requirement that a Participant Have a Formal Written Agreement to Use Another Participant's Give-Up

On December 12, 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 CHX Article 9, Rule 25 to eliminate the requirement that a participant have a formal written agreement to use another participant's give-up.³ The proposed rule change was published for comment in the Federal Register on December 31, 2007.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

When the CHX adopted rules for its new trading model, it included a provision that requires a participant that executes a trade using another participant's give-up to have a written agreement authorizing the use of the give-up.⁵ Soon after implementing its new trading model, the Exchange contemplated limiting the way in which the rule would apply to its institutional

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57036 (December 21, 2007), 72 FR 74381 (December 31, 2007) ("Notice") at footnote 3 (defining a "give-up" as a multi-character symbol that identifies a CHX participant firm. In the context of this rule, if a participant executes a trade using another participant's give-up, the firm is identifying the other firm as a party to the trade and allocating the trade to the other firm's account for clearing).

⁴ See id.

⁵ See Securities Exchange Act Release No. 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (approval order for the new trading model).

brokers by allowing institutional brokers to use other participants' give-ups in accordance with reasonable written order-handling procedures, without specifically requiring that a written agreement be in place.⁶ The Exchange believed that the rule provided an appropriate general standard, but did not intend to require a potentially substantial change in the long-standing business practices of the Exchange's institutional brokers, who often execute a trade using another participant's give-up, pursuant to instructions from such participant or its customer.⁷

The Exchange now proposes to eliminate the "give-up agreement" rule altogether. The Exchange believes the rule sets a good business standard, but does not believe that it is appropriate to put a hard-and-fast rule to that effect in place because of its potential impact on the day-to-day business practices of some of its institutional brokers.⁸

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.⁹ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the rules of an exchange be designed to 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. Repealing this rule will permit the Exchange's members to execute trades using another CHX participant's give-up pursuant to instructions from either that participant or its

⁶ See File No. SR-CHX-2006-32. The Exchange withdrew that proposal on December 12, 2007.

⁷ See Notice, *supra* note 3, at 74381.

⁸ See *id.*

⁹ In approving this 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).

¹⁰ 15 U.S.C. 78f(b)(5).

customer without requiring that a written agreement first be in place between those participants, thereby providing greater flexibility for members to execute trades on the Exchange. The Commission notes, however, that participants may choose to continue entering into formal written give-up agreements as they consider appropriate.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CHX-2007-27) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon
Deputy Secretary

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).