

("DPMs") that meet the Liquidity Provider Guidelines ("LPGs") provided for in the CBSX Fees Schedule is pegged to the taker fee amount on each trade. When CBOE raised the fee for ISO and IOC order executions to \$0.0030 per share, it did not intend to increase the DPM rebate for those orders to \$0.0030 per share. This filing establishes that the rebate for DPMs that meet the LPGs is \$0.0029 per share.

The proposed changes take effect on Friday, April 18, 2008.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(4) of the Act⁷ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change will impose 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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(2) thereunder.⁹ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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. Please include File No. SR-CBOE-2008-47 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-CBOE-2008-47. 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. Copies of such 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-CBOE-2008-47 and should be submitted on or before May 15, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57684; File No. SR-CHX-2008-03]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change To Amend Rules Relating to Fingerprint-Based Record Checks

April 18, 2008.

I. Introduction

On February 26, 2008, 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 rules relating to fingerprint-based criminal record checks of Exchange staff and other persons. The proposed rule change was published for comment in the **Federal Register** on March 18, 2008.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

As part of its trading model rule set, the Exchange included a fingerprint rule that requires the Exchange to conduct fingerprint-based criminal record checks of Exchange staff, certain independent contractors and other persons that have regular access to the Exchange's facilities and premises.⁴ The Exchange proposes to amend this rule to remove the requirement that the Exchange conduct these fingerprint-based background checks. The Exchange believes that those criminal record background checks of staff and consultants may be obtained through more efficient means. This proposal has no impact on the fingerprinting obligations that apply to Exchange participants and participant firm personnel. The Exchange will continue to require its participants to adhere to applicable fingerprinting obligations.⁵

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57479 (March 12, 2008), 73 FR 14516 (March 18, 2008).

⁴ See Article 6, Rule 10(b) of the Exchange's Rules.

⁵ See Article 6, Rule 10(a) of the Exchange's Rules; see also Section 17(f)(2) of the Act (15 U.S.C. 78q(f)(2)) and Rule 17f-2 thereunder (17 CFR 240.17f-2).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 19b-4(f)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷ which, among other things, requires that 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 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 to permit it the flexibility to determine whether it conducts fingerprint-based criminal record checks of Exchange staff and other persons, or whether it obtains those background checks in another manner, is reasonable and consistent with the Act. The Commission notes that the proposed rule change has no effect on the current fingerprinting obligations of Exchange participants and participant firm personnel under the rules of the Exchange or of the Act and the rules thereunder.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-CHX-2008-03), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Nancy M. Morris,
Secretary.

[FR Doc. E8-8875 Filed 4-23-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57681; File No. SR-FINRA-2008-011]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend the Trade Reporting Structure and Require Submission of Non-Tape Reports To Identify Other Members for Agency and Riskless Principal Transactions

April 17, 2008.

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 March 28, 2008, the Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a the National Association of Securities Dealers, Inc. ("NASD")) 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 FINRA. 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

FINRA is proposing to amend its trade reporting rules applicable to over-the-counter ("OTC") equity transactions³ to: (1) Replace the current market maker-based trade reporting framework with an "executing party" framework; and (2) require that any member with the trade reporting obligation under FINRA rules that is acting in a riskless principal or agency capacity on behalf of one or more other members submit non-tape report(s) to FINRA, as necessary, to identify such other member(s) as a party to the trade. The text of the proposed rule change is available at FINRA, the Commission's Public Reference Room, and <http://www.finra.org>.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Specifically, OTC equity transactions are: (1) Transactions in NMS stocks, as defined in Rule 600(b) of Regulation NMS under the Act, effected otherwise than on an exchange, which are reported through the Alternative Display Facility ("ADF") or a Trade Reporting Facility ("TRF"); and (2) transactions in "OTC Equity Securities," as defined in NASD Rule 6610 (e.g., OTC Bulletin Board and Pink Sheets securities), Direct Participation Program ("DPP") securities and PORTAL equity securities, which are reported through the OTC Reporting Facility ("ORF"). The ADF, TRFs and ORF are collectively referred to herein as the "FINRA Facilities."

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

In its filing with the Commission, FINRA 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. FINRA 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

Trade Reporting Structure

Currently, the following structure is in place for purposes of reporting most OTC equity transactions to FINRA: (1) In transactions between two market makers, the sell-side reports; (2) in transactions between a market maker and a non-market maker, the market maker reports; (3) in transactions between two non-market makers, the sell-side reports; and (4) in transactions between a member and either a non-member or customer, the member reports.⁴ This reporting structure can result in confusion, delays and double-reporting, as the parties to a trade attempt to determine which party has the trade reporting obligation. Today, a firm's status as a market maker may not always be apparent to the contra-party to a trade and, increasingly, firms' proprietary desks (other than their market making desks) are handling and executing transactions in equity securities. In addition, members are required to report whether any applicable exception or exemption to Rule 611 of Regulation NMS (the Order Protection Rule) applies to a transaction, which is information that may not be readily known to the party with the reporting obligation if it is not the executing broker to the transaction, e.g., whether the executing broker has routed

⁴ See NASD Rules 4632(b) and 6130(c) relating to the NASD/Nasdaq TRF; 4632A(b) relating to the ADF; 4632C(b) and 6130C(c) relating to the NASD/NSX TRF; 4632E(b) and 6130E(c) relating to the NASD/NYSE TRF; and 6130(c) and 6620(b) relating to the ORF.

For purposes of reporting transactions in DPP securities to FINRA, NASD Rule 6920(b) requires that in a transaction between two members, the member representing the sell-side report and in a transaction between a member and customer, the member report.

⁶ 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).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).