

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 Section, 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 filings also will be available for inspection and copying at DTC's principal office and DTC's Web site at (<http://www.dtc.org/impNtc/mor/index.html>). 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-DTC-2009-13 and should be submitted on or before August 25, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60395; File No. SR-CHX-2009-10]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Add the Quote@CHX and Reprice@CHX Order Types to Brokerplex System

July 28, 2009.

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 23, 2009, Chicago Stock Exchange, Inc.

("CHX" or the "Exchange") 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 CHX. 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

The CHX proposes to amend its rules to allow Exchange-registered Institutional Brokers to enter two new order types, known as Quote@CHX and Reprice@CHX, when using the Brokerplex® order entry system. The text of this proposed rule change is available on the Exchange's Web site at (<http://www.chx.com>) 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, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The 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

The Exchange proposes to add Interpretations and Policies .04 to the Article 17 obligations of CHX-registered Institutional Brokers to permit the entry of two new order types within Brokerplex for Institutional Brokers to use when submitting orders to the CHX Matching System for display and potential execution. The new order types are known as "Quote@CHX" and "Reprice@CHX."

The Brokerplex system is an order entry and management system developed and operated by the Exchange for use on a non-exclusive basis by CHX-registered Institutional Brokers to receive and hold orders from their clients while seeking execution on the CHX or elsewhere in the National Market System. The Exchange seeks to add two new order types within Brokerplex for Institutional Brokers to use when submitting orders to the CHX

Matching System for display and potential execution.

In many instances, Institutional Brokers would like to display orders in the CHX Matching System when seeking trade execution rather than simply hitting bids or lifting offers already displayed in the marketplace. By doing so, they could achieve a level of price improvement for their customers. Rapidly changing quotes in today's market environment often make it difficult to successfully post a bid or offer, however, since a standard limit order entered by the Institutional Broker may lock or cross the National Best Bid or Offer ("NBBO") by the time that order entry is complete (by our rules, the Matching System automatically rejects orders in such circumstances).<sup>3</sup>

The new Quote@CHX order type would allow the Institutional Broker to submit an order to be priced within Brokerplex at a defined limit price which is one minimum price increment (normally 1 cent for most securities) from the relevant side of the National Best Bid or Offer ("NBBO") at the time of order submission. For buy orders, the relevant side of the NBBO is the offer; for sell orders it is the bid. The pricing of the Quote@CHX (and Reprice@CHX) order is done solely within Brokerplex and the order is then sent as a limit order by Brokerplex to the Matching System. For example, if the Institutional Broker has set the incremental offset at 1 cent and the NBBO was 20.10 x 20.13, a Quote@CHX buy order would be automatically priced and submitted by Brokerplex to the Matching System as a 20.12 limit order. The systematic pricing of the Quote@CHX (and Reprice@CHX) orders is non-dynamic, i.e., the order does not automatically reprice upon changes to the NBBO once it has been accepted by the Matching System.

The Reprice@CHX order type allows an Institutional Broker to change an existing limit order residing in the Matching System and replace it with an order generated in the same manner as a Quote@CHX order type. Submission of a Reprice@CHX order would generate an instruction to (1) cancel a limit order previously submitted by an Institutional Broker to the Matching System and (2) generate a new order to either buy or sell (priced by Brokerplex in the same manner as for Quote@CHX orders as described above) and send it to the Matching System as a limit order.

<sup>3</sup> It is important to keep in mind that Institutional Brokers manually enter orders into the Matching System through Brokerplex and those orders are often competing for priority with system-generated orders of algorithmic order senders.

<sup>4</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.

Generally, usage of an agency Quote@CHX or Reprice@CHX order by an Institutional Broker should be confined to situations in which it is handling a non-marketable or "not held" limit order on behalf of a customer.<sup>4</sup> There may be limited circumstances in which it could be appropriate for an Institutional Broker handling a market order to submit a Quote@CHX (but not a Reprice@CHX) order. Institutional Brokers handling a customer limit order would be required to enter the limit price into Brokerplex when submitting a Quote@CHX or Reprice@CHX order. In pricing the Quote@CHX and Reprice@CHX orders, Brokerplex will reject any entries if the systematically-generated price would be outside the customer's specified limit price.

Our standard Matching System validations for locked and crossed markets would apply equally to these orders upon receipt. Neither the Quote@CHX nor Reprice@CHX order type would be available for Institutional Brokers submitting orders to destinations other than the CHX Matching System. The Matching System itself will not be eligible to receive these order types. As the owner and operator of the Brokerplex system, the Exchange would collect and maintain all of the order records relating to these two order types required by our rules, although the responsibility for the accurate entry of transaction-related information lies with the Brokerplex user.

Our belief is that these two order types will permit Institutional Brokers to enter displayable orders in a more efficient manner and avoid the delays associated with reentering a rejected order at a new price. This functionality is optional, so an Institutional Broker which does not want its order priced by Brokerplex can simply enter a traditional limit order.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,<sup>5</sup> and furthers the objectives of Section 6(b)(5) in particular,<sup>6</sup> in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and

the public interest. In this case, providing Institutional Brokers with the ability to enter display-eligible orders on a more efficient basis protects investors and removes an impediment to a free and open market in that it improves the ability of Institutional Brokers to seek the best execution of the orders which they are handling.

### *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.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## 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 Number SR-CHX-2009-10 on the subject line.

### *Paper Comments*

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

All submissions should refer to File Number SR-CHX-2009-10. 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 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 publicly available. All submissions should refer to File Number SR-CHX-2009-10 and should be submitted on or before August 25, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E9-18563 Filed 8-3-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Buy America Waiver Notification

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice provides information regarding the FHWA's finding that Buy America waivers are not appropriate for the use of foreign hollow structural section (hollow structural section round A500, Grade C, 10.75 x 0.625 steel pipe) and one-inch diameter stainless steel anchor bolts (1 inch diameter stainless steel, F 593,

<sup>4</sup> A "not held" order is one in which the Institutional Broker has been given price and time discretion by its customer. See Article 1, Rule 2(w).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 17 CFR 200.30-3(a)(12).