

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49981; File No. SR-CHX-2004-08)

July 7, 2004

Self-Regulatory Organizations; The Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change and Amendment No. 1 to Amend the CHX Membership Dues and Fees Schedule to Provide a Tape Credit of 50% to Specialists Trading Tape A and Tape B Securities

On May 18, 2004, The Chicago Stock Exchange, Incorporated ("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 its membership dues and fees schedule, effective February 1, 2004, to provide a tape credit of 50% to specialists trading Tape A and Tape B securities. On May 18, 2004, the CHX filed an amendment to the proposed rule change ("Amendment No. 1"), which amendment completely replaced and superseded the original proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on June 2, 2004.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 49772 (May 26, 2004), 69 FR 31147.

securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. As set forth in its July 2, 2002 Order of Summary Abrogation ("Abrogation Order"),⁶ the Commission will continue to examine the issues surrounding market data fees, the distribution of market data rebates, and the impact of market data revenue sharing programs on both the accuracy of market data and on the regulatory functions of self-regulatory organizations. In the interim, the Commission believes it is reasonable to allow the CHX to provide a tape credit of 50% to specialists trading Tape A and Tape B securities, because the proposal will allow the CHX to operate a market data revenue-sharing program that is substantially similar to market data revenue-sharing programs operated by other markets.⁷

The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ Securities Exchange Act Release No. 46159 (July 2, 2002), 67 FR 45775 (July 10, 2002)(File Nos. SR-NASD-2002-61, SR-NASD-2002-68, SR-CSE-2002-06, and SR-PCX-2002-37)(Order of Summary Abrogation).

⁷ See, e.g., Securities Exchange Act Release No. 46911 (November 26, 2002), 67 FR 72251 (December 4, 2002)(SR-BSE-2002-10).

⁸ 15 U.S.C. 78f(b)(5)

The decision to allow the CHX to provide a 50% tape credit to specialists trading Tape A and Tape B securities, however, is narrowly drawn, and should not be construed as resolving the issues raised in the Abrogation Order, and does not suggest what, if any, future actions the Commission may take with regard to market data revenue sharing programs.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁹, that the proposed rule change (SR-CHX-2004-08) be, and it hereby is, approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland
Deputy Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).