

under Amex's Rules of Procedure in Disciplinary Matters.

It is therefore ordered, pursuant to section 19(b)(2) of the Act<sup>10</sup> and Rule 19d-1(c)(2) under the Act,<sup>11</sup> that the proposed rule change (SR-Amex-2006-70), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54522; File No. SR-CHX-2006-26]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 Thereto, Prohibiting a Participant Firm From Earning Credits When Its Exchange Bill Is More Than 30 Days Past Due

September 27, 2006.

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 August 22, 2006, the Chicago Stock Exchange, Inc. ("CHX" or "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 the Exchange. On September 22, 2006, the Exchange filed Amendment No. 1.<sup>3</sup> The Exchange has designated this proposal as one establishing or changing a due, fee, or

other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposal 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.

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

The CHX proposes to amend its Fee Schedule to provide that a CHX participant firm shall not be entitled to earn credits for any month when the participant firm's Exchange bill is more than 30 days past due. The text of the proposed rule change, as amended, is available on the Exchange's Web site at [http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm), at the Office of the Secretary of the Exchange, and at 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 Exchange 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. The Exchange 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

Under the Exchange's Fee Schedule, the Exchange's participants, including its specialists and floor brokers, can qualify for credits that reduce the total monthly fees owed by these participants.<sup>6</sup> These credits include a specialist "transaction credit" based on monthly tape revenue in securities reported on Tape A and B of the Consolidated Tape Association and a floor broker "earned credit" based on

the transaction fees received as a result of floor broker executions.<sup>7</sup>

Through this proposed rule change, the Exchange amends the Fee Schedule to add a new provision—applicable to all credits—that prevents a participant firm from earning credits for any month when payment of the firm's Exchange bill (from one or more previous months) is more than 30 days past due.<sup>8</sup> The Exchange believes that this provision appropriately limits a participant's ability to receive credits from the Exchange when it has not paid an Exchange bill that has been due and owing for at least 30 days.

###### 2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b)(4) of the Act<sup>9</sup> provides for the equitable allocation of reasonable dues, fees and other charges among its members.

##### 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 either solicited or received.

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

The foregoing proposed rule change establishes or changes a due, fee, or other charge applicable only to a member pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and Rule 19b-4(f)(2) thereunder.<sup>11</sup> Accordingly, the proposal took effect upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such

<sup>7</sup> See Fee Schedule, Section M(1)(specialist credits) and Section M(2)(a)(floor broker earned credits).

<sup>8</sup> For example, a participant's February bill is distributed in early March (say, March 10) and due in early April (in this example, April 10). It would be 30 days past due on May 10. If a participant has not paid its February bill by May 10, the participant would not be eligible to receive credits for the month of May (and for any later months during which the bill remains unpaid).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 240.19d-1(c)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Exchange clarified the new language it proposes to add to its Schedule of Participant Fees and Credits ("Fee Schedule"). Originally, the Exchange proposed that the Fee Schedule be amended to provide that a CHX participant firm shall not be entitled to "receive" credits for any month when the participant firm's Exchange bill is more than 30 days past due. In Amendment No. 1, the Exchange made a clarifying change, instead amending the Fee Schedule to provide that a CHX participant firm shall not be entitled to "earn" credits for any month when the participant firm's Exchange bill is more than 30 days past due. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change the Commission considers the period to commence on September 22, 2006, the date on which the CHX filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

<sup>6</sup> The Exchange's Fee Schedule also includes a new credit for two-sided quote providers and a credit for dedicated odd-lot dealers.

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>12</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2006-26 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-CHX-2006-26. 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. 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-CHX-2006-26 and should be submitted on or before October 24, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Nancy M. Morris,**

*Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54521; File No. SR-DTC-2006-11]

#### **Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Allow the Inventory Management System To Accept Real-Time and Late Affirmed Trades From Omgeo**

September 27, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 11, 2006, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on September 20, 2006, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

DTC is seeking to expand its Inventory Management System ("IMS") to accept in real-time non-Continuous Net Settlement ("non-CNS") institutional trades from Omgeo LLC ("Omgeo") and to accept late affirmed trades into IMS for automated settlement at DTC.

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

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>15</sup> U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified the text of the summaries prepared by DTC.

#### *(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### 1. Current Process for IMS

Omgeo's TradeSuite system currently feeds DTC a batch file of approximately 320,000 eligible affirmed institutional trades at approximately 1 p.m. on T+2. Delivering DTC participants then authorize or exempt these trades in IMS for automated settlement to be attempted at DTC. Any trades affirmed after 12 p.m. on T+2 are ineligible for automated settlement at DTC via the TradeSuite interface. These late affirmed trades are typically settled by the broker-dealer or custodian by processing a DTC Delivery Order ("DO"). These DOs experience a higher reclaim rate than deliveries of eligible affirmed trades.

##### 2. Proposed Changes

DTC is proposing to enhance its interface with Omgeo to accept eligible affirmed non-CNS trades from Omgeo's TradeSuite system in real-time. Although DTC would receive affirmed trades from Omgeo's TradeSuite system in real-time as they are affirmed, participants would still have the ability to process authorizations and exemptions as they do today. Participants would be able to authorize trades as they are received into IMS through the existing options (*i.e.*, globally or on a trade-for-trade basis). Omgeo would continue to produce the Cumulative Eligible Trade report/file at approximately 1 p.m. on T+2. This batch report/file notifies participants of affirmed MITS trades sent to IMS for the following settlement date. However, IMS would continue the current practice of applying a participant's authorization profile (delivery order) for Matched Institutional Trades ("MITs") after the midday cut-off on T+2 (at approximately 1 p.m.).

In addition, some new functionality is also being introduced through the enhanced Omgeo and DTC interface. Omgeo would send "late affirmed"<sup>3</sup> trades to IMS. Late affirmed trades would be stored and identified in IMS as a new transaction type, Late Matched Institutional Trades ("LMIT"). These trades are currently ineligible for automated settlement at DTC. This functionality will allow participants to eliminate settling these transactions as DOs at DTC, which experience a higher reclaim rate than affirmed eligible

<sup>3</sup> Late affirmed trades are defined as trades affirmed after the 12:00 p.m. cutoff on T+2 until 12:00 p.m. on settlement date.

<sup>12</sup> See supra at note 3.