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–NYSEAmex–2010–02 on the subject line.

Paper Comments

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

All submissions should refer to File No. SR–NYSEAmex–2010–02. 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,[11] 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 NYSE Amex. 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–NYSEAmex–2010–02 and should be submitted on or before February 17, 2010.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–1607 Filed 1–26–10; 8:45 am]

BILLING CODE 8011–01–P

[11] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61392; File No. SR–CHX–2010–02]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Implement a Cancellation Fee

January 21, 2010.

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 January 13, 2010, Chicago Stock Exchange, Inc. ("Exchange" or "CHX") 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. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective January 25, 2010, to implement a cancellation fee for Participants entering and subsequently cancelling orders under certain circumstances. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm* and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

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

Through this filing, the Exchange would amend its Fee Schedule, effective January 25, 2010, to impose a charge for order cancellations in issues priced $1.00 per share or more submitted by Participants whose orders rarely are at or near the National Best Bid or Offering ("NBBO").[5] The Exchange believes that the order cancellation fee will either incent Participants to submit orders which are closer to the NBBO or compensate the Exchange for the systems and operational costs and burdens associated with handling and recording orders which rarely execute.

In determining whether the order cancellation fee would be imposed upon a given Participant, the Exchange would utilize a formula which subtracts the number of Quotable or "Q" orders submitted by the Participant in the Regular Trading Session in a particular month from the number of Wide or "W" orders. Q orders are defined as provide orders in issues priced $1.00 per share or more submitted by the Participant in the Regular Trading Session which are priced at the relevant side of the NBBO up to (but not including) two (2) cents inferior to the relevant side of the NBBO (bid for buy orders; offer for sell orders) at the time the order is received by the Matching System.[6] W orders are defined as those submitted by the Participant in the Regular Trading Session in issues priced $1.00 per share or more which are two (2) or more cents inferior to the relevant side of the NBBO at the time the order is received by the Matching System.[7] The difference between these two values is then divided by "E," which is defined as the greater of (a) one (1) or (b) the number of all provide orders (W and Q) which are submitted and executed (in whole or in part) in the Regular Trading Session (excluding cross transactions) within the Matching System during the calendar month in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] We are excluding orders and cancellations in issues priced under $1 per share from this proposal as it does not appear that the activity in those issues gives rise to the same concerns as expressed herein for issues priced at or greater than $1 per share.

[6] Provide orders are those which, for some period of time, reside in our Matching System prior to trade execution. They contrast with "take" orders, which interact with orders resting in our book.

[7] As a result, W order can only be "provide" orders and never "takers" of liquidity residing in our Matching System.

question by the Participant.[8] If the remaining value is greater than 100, then the cancellation fee applies to the Participant for that month's activity and the Participant would be assessed a fee of $0.01 per order cancellation. If the value is 100 or less, the Participant would not be assessed any fee on its cancellation instructions.

The cancellation fee will be calculated and applied as to the Account Symbols maintained by each clearing Participant. Individual Account Symbols are assigned to each trading account maintained by a clearing Participant. Each clearing Participant which executes orders on the Exchange has at least one Account Symbol, while some clearing Participants have multiple account symbols. Multiple accounts can be used by clearing Participants, for example, to segregate the order activity of different clients. Calculating and applying the cancellation fee by the Account Symbols maintained by the clearing Participant provides a more precise way of identifying the conduct and correspondent firms implicated by the proposed fee provisions.

The operation of this formula can be illustrated by the use of some examples. For Example 1, we assume that in a given month, a Participant firm submits 1,000,000 provide orders to our Matching System. Of this amount, 950,000 orders are two (2) cents or more inferior to the prevailing NBBO at the time when the Matching System received them, and would therefore be classified as Wide or W orders. The remaining 50,000 orders were priced at the NBBO or within two (2) cents at the time when the Matching System received them, and would therefore be classified as Quotable or Q orders. Of these 1,000,000 orders, we assume that a total of 10,000 orders are executed in whole or in part during the month.[9] Finally, we assume that the Participant submits 1,000,000 cancellation instructions for the W and Q orders noted above during the month. Pursuant to the proposed formula, the difference between W and Q (950,000 less 50,000) would be 900,000. Dividing that figure by the number of orders which were executed (E or 10,000) gives us an amount of 90. Since that value is less than 100, no fee would be imposed on the cancellations.

For Example 2, we assume the same facts as above, with the exception that the Participant firm submits a total of 2,000,000 provide orders to our Matching System and 1,950,000 of those orders are two (2) cents or more inferior to the prevailing NBBO at the time when the Matching System received them, and would therefore be classified as Wide or W orders. Pursuant to the proposed formula, the difference between W and Q (1,950,000 less 50,000) would be 1,900,000. Dividing that figure by the number of orders which were executed (E or 10,000) gives us an amount of 190. Since that value exceeds 100, a fee would be imposed on the cancellations associated with the orders. Multiplying the number of those cancellations (1,000,000) by the proposed rate would result in a monthly cancellation fee to the Participant of ten thousand dollars ($10,000).

For the month of December 2009, CHX Participants entered in total 11,293,590 Wide (W) orders and 5,603,173 Quotable (Q) orders, of which 161,420 were executed in whole or in part (the "E" value under the proposal). Of the approximately 11.3 million W-type orders submitted in December, over 7.75 million of them were entered by a single CHX Participant firm. This same firm was responsible for the entry of 7,754,446 cancellation instructions in December, out of a total of 16,629,795 such instructions for all Participant firms, and it would have been assessed a cancellation fee pursuant to the proposal.

The purpose of this charge is to incent high-frequency trading Participants to submit orders which, when quoted, are at or close to the NBBO or, if their behavior remains unchanged, to compensate the Exchange for the processing and electronic storage costs associated with orders which "quote around" the NBBO and rarely execute. Under the proposed formula, the likelihood that the cancellation fee would be imposed increases the greater the number of Wide orders submitted by the Participant. The formula is designed to isolate a pattern of behavior in which a firm submits orders which are quoted well outside the NBBO and frequently cancels and reenters such order to continuously stay outside the NBBO.[10] Firms which submit a small number of Wide orders or which also submit a relatively significant number of Quotable orders are less likely to be impacted by the proposed fee. In addition, the likelihood that the cancellation fee will be assessed diminishes as the number of provide orders actually executed (E) increases.

The Exchange believes that there is relatively little benefit added to the national market system by the behavior impacted by the proposed cancellation fee. The processing of such orders and the associated cancellation instructions has the potential to impact our systems capacity and does result in increased order and market data storage costs. Because Wide orders are infrequently executed (which normally generates trading fee revenue for the Exchange), such orders are more expensive on a relative basis for the Exchange to receive and process. Moreover the presence of Wide orders in our book can make it more difficult to execute other, Reg NMS trade-through exempt orders, due to our normal price-time order priority provisions. By discouraging the frequent use of Wide orders, the Exchange believes that such trade-through exempt transactions can be more readily executed.

The Exchange proposes to implement the cancellation charge effective January 25, 2010. The formula by which the cancellation fee is derived shall be calculated for the remaining trading days in January and billed after the end of the month, and thereafter calculated for the entire month and billed after the end of that month.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[11] in general, and furthers the objectives of Section 6(b)(4) of the Act[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the Exchange believes that the cancellation fee described herein should help address the operational costs and burdens associated with the processing and storage of orders well outside the NBBO.

[8] Cancellations from "Immediate or Cancel" or "Fill or Kill" orders will not be counted towards the number of cancellations resulting in a fee charged to a Participant. In the event that a Participant has no executed provide orders in a month, we assume that E has a value of one (1) in order to avoid a mathematical error in applying the cancellation fee formula.

[9] Since orders may be partially executed, the Participants may receive more trade executions than orders. The Exchange believes that the formula should be based upon the number of orders executed and not the number of trades reported.

[10] Although the Exchange is not privy to the trading strategies of the firms submitting large numbers of orders well outside the NBBO, it appears that they are hoping to benefit from Intermarket Sweep Order ("ISO") satisfaction orders sent to the Exchange pursuant to the requirements of Regulation NMS when a trade through occurs on another trading center and the Wide orders are at the CHX BBO. Since the sending of ISO satisfaction orders is not required for non-Regular Trading Session activity, we are excluding such activity from the proposed fee.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4)

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 rule change has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act [13] and subparagraph (f)(2) of Rule 19b–4 thereunder [14] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such 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 purpose 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 Number SR–CHX–2010–02 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–CHX–2010–02. 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 publicly available. All submissions should refer to File Number SR–CHX–2010–02 and should be submitted on or before February 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–1606 Filed 1–26–10; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61389; File No. SR–BX–2010–002]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Amend Rule 2342 To Reflect Changes to Corresponding FINRA Rule

January 20, 2010.

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 January 5, 2010, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") 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. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The Exchange is filing this proposed rule change to amend BX Rule 2342 to reflect recent changes to a corresponding rule of the Financial Industry Regulatory Authority ("FINRA"). BX will implement the proposed rule change thirty days after the date of the filing. The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com,* at the Exchange's principal office, 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

Many of BX's rules are based on rules of FINRA (formerly the National Association of Securities Dealers ("NASD")). During 2008, FINRA embarked on an extended process of moving rules formerly designated as "NASD Rules" into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, BX also proposes to initiate a process of modifying its rulebook to ensure that BX rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. In some cases, it will not be possible for the rule numbers of BX

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).