

H. EQUIPMENT, INFORMATION SERVICES AND TECHNOLOGY CHARGES—Continued

- “Total Billable Shares in Month” means, for a given month, the total number of shares executed on the Exchange by the floor broker for which the Exchange received a transaction fee. Any share executed for which the Exchange did not receive a transaction fee shall not be considered a billable share.
- “Total Trading Days in Month” means, for a given month, the number of business days that the Exchange was open for business during the month. Days in which the Exchange closes early, due to a holiday or otherwise, shall nonetheless be considered a day that the Exchange is open for business.
- “Average Rate per Billable Share” means, for a given month, (i) the total dollar amount of transaction fees received by the Exchange for trades executed on the Exchange by the floor broker divided by (ii) Total Billable Shares in Month.
- “Credit Percentage” means the applicable percentage taken from the following table:

Average Daily Billable Shares	0-49,999	50,000-99,999	100,000-499,999	500,000 shares or more.		
Average Rate per Billable Share	Less than \$.0040		20%	30%	40%	50%
	\$.0040-\$.0055		40%	45%	60%	75%
	Greater than \$.0055		40%	60%	80%	100%

In any month that the Exchange’s Total Billable Shares in Month for all floor brokers exceeds the Exchange’s monthly average billable shares for all floor brokers for the first quarter of 2003, the Exchange will distribute 50% of the incremental transaction fee revenue received by the Exchange resulting from that increase in the number of billable shares (the “Additional Revenue”). The Additional Revenue will be distributed to each floor broker in proportion to the floor broker’s share of that month’s incremental increase in billable shares. (Effective August 1, 2003)

The Earned Credit (together with any Additional Revenue) calculated above for each floor broker shall be decreased by an amount equal to that floor broker’s “Credit Reduction Charge,” which shall be calculated as follows:

$$(\text{Floor Broker's Monthly Earned Credit} \div \text{Total CHX Monthly Earned Credits}) \times \text{Exchange Baseline } [\$50,000] = \text{Floor Broker's Credit Reduction Charge.}$$

The “Exchange Baseline” means, for a given month, \$50,000 less any additional revenues (up to \$50,000) realized by the Exchange as a result of the elimination of the monthly caps in August 2003 (SR-CHX-2003-22).

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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 change and discussed any comments it had received on the proposed rule change. 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 proposed rule change amends the CHX Fee Schedule in several ways. First, the proposal revises the Exchange’s fees for agency transactions executed through floor brokers in both over-the-counter (“OTC”) and listed securities by reducing transaction fees for executions that exceed specific thresholds and eliminating the caps associated with those fees.⁶ Specifically, the proposal reduces the per share fees on shares traded above a total monthly charge of \$150,000 by the following percentages: (1) 25% on additional shares traded that would otherwise generate a total monthly charge above \$150,000 and below \$200,000; (2) 50% on additional shares traded that would otherwise generate a total monthly charge at or above \$200,000 and below \$250,000; and (3) 75% on additional shares traded that would otherwise generate a total monthly charge at or above \$250,000. At the same time, the Exchange is eliminating the caps that were previously associated with these transaction fees.⁷

Another change to the Fee Schedule allows the Exchange to re-bill its floor brokers a portion of the network and connection costs associated with providing access to the NYFIX system, which can be used to deliver orders to the trading floor for handling by CHX floor brokers. The Exchange will pay the first \$15,000 each month associated with the use of this system. The Exchange’s floor brokers will be

assessed any remaining costs, based on the proportion of each firm’s use of the network during the month.

Finally, the proposal modifies the floor broker earned credit program to permit floor brokers to receive additional earned credits if either (a) the number of overall billable shares executed by floor brokers at the Exchange increases in a month over the average number of billable shares executed in a month by floor brokers at the Exchange in the first quarter of 2003 or (b) the Exchange recognizes additional revenues from the changes it has made to its transaction fee schedule as part of this submission. If the number of overall billable shares executed by floor brokers reaches the threshold described above (i.e., it exceeds the average number of billable shares executed by floor brokers during a month in the first quarter of 2003), the Exchange will distribute 50% of the incremental transaction fee revenue that results from that increase in the number of billable shares.⁸ In addition, if the Exchange recognizes additional transaction fee revenues in a particular month as the result of the transaction fee changes it has made in this submission, those revenues will be used to reduce the “credit reduction charge” that now serves to decrease the earned credits available to floor brokers.⁹

All of these fee changes took effect August 1, 2003. Among other things, the fee changes are designed ultimately to increase the Exchange’s trading volume in securities traded by its floor brokers and to increase the Exchange’s revenues. The Exchange believes that these changes reflect a reasonable allocation of dues, fees and other

⁶ This proposed rule change also affects the fees charged to market makers for their executions on the Exchange.

⁷ The Exchange previously had separate \$110,000 per month caps on transaction fees generated through orders executed, other than through the Midwest Automated Execution System (“MAX”) in OTC and listed securities.

⁸ This additional revenue will be distributed to each floor broker in proportion to the floor broker’s share of that month’s incremental increase in billable shares.

⁹ The Exchange implemented the credit reduction charge in September 2002. See Securities Exchange Act Release No. 46592 (October 2, 2002), 67 FR 62999 (October 9, 2002) (SR-CHX-2002-28).