

Proposed Rule Change by Chicago Stock Exchange  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Ellen"/>	Last Name	<input type="text" value="Neely"/>
Title	<input type="text" value="President &amp; General Counsel"/>		
E-mail	<input type="text" value="eneely@chx.com"/>		
Telephone	<input type="text" value="(312) 663-2496"/>	Fax	<input type="text" value="(312) 663-2231"/>

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
  
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date	<input type="text" value="10/22/2007"/>
By	<input type="text" value="Ellen J Neely"/>
	(Name)
	<input type="text" value="President &amp; General Counsel"/>
	(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Ellen J Neely, eneely@chx.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**Form 19b-4 Information**

**1. Text of Proposed Rule Change**

- (a) The Chicago Stock Exchange, Incorporated (the “CHX” or the “Exchange”), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the “Act” or the “Exchange Act”), proposes to amend its rules to eliminate all provisions that would impose a “price test” in connection with the short sale of securities or require that the Matching System operate in a manner consistent with such a price test. The text of the proposed rule change is set out in Exhibit 5.
- (b) Not applicable.
- (c) Not applicable.

**2. Procedures of Self-Regulatory Organization**

The Exchange’s Board of Directors unanimously approved these proposed rule changes at a meeting on June 13, 2007.

**3. Self-Regulatory Organization’s Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change**

- (a) On June 13, 2007, the Securities and Exchange Commission (the “Commission”) announced a series of amendments to Reg SHO and the elimination of Rule 10a-1.<sup>1</sup> The Commission’s action prohibits any self-regulatory organization from having a price test and removes the “short exempt” marking requirement of Rule 200(g). The compliance date for these changes (the “Compliance Date”) is July 6, 2007.

The Exchange’s rules currently include several provisions that should be eliminated to ensure that the Exchange’s rules do not improperly impose a price test or otherwise require handling of short sale orders in a manner inconsistent with the Commission’s latest action. Among others, these provisions include a requirement that participants effect short sales in compliance with Rule 10a-1; a description of the Matching System’s repricing of sell short orders, when necessary to comply with Rule 10a-1; and a requirement that participants mark

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<sup>1</sup> See Press Release No. 2007-114; Release No. 34-55970 (June 28, 2007), 72 FR 36348 (July 3, 2007).

orders as “short exempt.”<sup>2</sup> Through this filing, the Exchange would eliminate these provisions.

The Exchange has filed Amendment No. 1 to the proposal to confirm that it is not eliminating a section of its “Short Sales” rule that imposes a requirement that a market maker notify the Exchange if it has a position in a security that is greater than or equal to 5% of the outstanding public float of that security, as determined by the company's most recent report on Form 10-K.<sup>3</sup> The Exchange’s original proposal had sought to remove this provision from its rules.<sup>4</sup>

(b) Approval of the rule changes proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b). In particular, the proposed changes are consistent with Section 6(b)(5) of the Act, because they would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by allowing the CHX to amend its rules to respond to the Commission’s elimination of Rule 10a-1 and the amendments to Reg SHO.

#### **4. Self-Regulatory Organization’s Statement of Burden on Competition**

The Exchange believes that no burden will be placed on competition as a result of the proposed rule changes.

#### **5. 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.

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<sup>2</sup>See Article 9, Rule 23(a); Article 20, Rule 8(e)(5); and Article 11, Rules 3 and 4, respectively. Other provisions that must be eliminated are ones that relate to the “short exempt” order type and that refer to Rule 10a-1. See Article 1, Rule 2(hh) and Article 20, Rule 4(b)(23)(the “short exempt” order type); and Article 1, Rule 1(w) (referring to Rule 10a-1). Although it is eliminating the “short exempt” order type, the Exchange will continue, for 90 days following the Compliance Date, to accept orders marked in this manner to give the Exchange’s participants time to adapt to the change. See Letter from Josephine J. Tao to Jeffrey P. Burns, dated July 2, 2007 (providing no-action relief for SROs that continue to accept orders marked as “short exempt” for a period of 90 days from the Compliance Date).

<sup>3</sup> See Article 9, Rule 23(b)

<sup>4</sup>This provision is one that apparently was inadvertently carried over from the Exchange’s old trading model and is not necessary in the Exchange’s new trading model. A separate provision of the Exchange’s new trading model rules specifically requires that market makers keep data about their positions and report that information to the Exchange upon request. See Article 16, Rule 10. The Exchange will file a separate proposal to eliminate this provision, if it continues to believe that it is appropriate to do so.

**6. Extension of the Time Period for Commission Action**

The Exchange does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

The Exchange believes that the proposed rule change (A) does not significantly affect the protection of investors or the public interest; and (B) does not impose any significant burden on competition because it allows the Exchange to modify its rules to conform to the Commission's changes to existing short sale-related rules. The Exchange provided the Commission with a draft of this proposed rule change on June 25, 2007 and has asked the Commission to waive the 30-day operative period requirement, to permit this rule to be operative as of July 6, 2007. As a result, the Exchange believes that this submission is non-controversial and should be designated to take effect pursuant to Section 19(b)(3)(A)(vi).

**8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**9. Exhibits**

Exhibit 1: The Notice of the Proposed Rule Change for publication in the Federal Register.

Exhibits 2-3: Not applicable.

Exhibit 4: A comparison of the originally-proposed rule text and the proposed rule text submitted through Amendment No. 1.

Exhibit 5: The proposed rule text.

**Exhibit 1**

**SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 34-\_\_\_\_; File No. SR-CHX-2007-17)  
SELF-REGULATORY ORGANIZATIONS**

**Proposed Rule Change By The Chicago Stock Exchange, Inc. Regarding the Elimination of Provisions Relating to Rule 10a-1**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 31, 2007, the Chicago Stock Exchange, Inc. (the “CHX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. An amendment to this proposal was filed on October 22, 2007. 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**

Through this filing, the Exchange proposes to amend its rules to eliminate all provisions that would impose a “price test” in connection with the short sale of securities or require that the Matching System operate in a manner consistent with such a price test. The text of this proposed rule change is available on the Exchange’s website at [http://www.chx.com/rules/proposed\\_rules.htm](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 Changes*

#### 1. Purpose

On June 13, 2007, the Securities and Exchange Commission (the "Commission") announced a series of amendments to Reg SHO and the elimination of Rule 10a-1.<sup>1</sup> The Commission's action prohibits any self-regulatory organization from having a price test and removes the "short exempt" marking requirement of Rule 200(g). The compliance date for these changes (the "Compliance Date") is July 6, 2007.

The Exchange's rules currently include several provisions that should be eliminated to ensure that the Exchange's rules do not improperly impose a price test or otherwise require handling of short sale orders in a manner inconsistent with the Commission's latest action. Among others, these provisions include a requirement that participants effect short sales in compliance with Rule 10a-1; a description of the Matching System's repricing of sell short orders, when necessary to comply with Rule

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<sup>1</sup> See Press Release No. 2007-114; Release No. 34-55970 (June 28, 2007), 72 FR 36348 (July 3, 2007).

10a-1; and a requirement that participants mark orders as “short exempt.”<sup>2</sup> Through this filing, the Exchange would eliminate these provisions.

The Exchange has filed Amendment No. 1 to the proposal to confirm that it is not eliminating a section of its “Short Sales” rule that imposes a requirement that a market maker notify the Exchange if it has a position in a security that is greater than or equal to 5% of the outstanding public float of that security, as determined by the company's most recent report on Form 10-K.<sup>3</sup> The Exchange’s original proposal had sought to remove this provision from its rules.<sup>4</sup>

## 2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>5</sup> The Exchange believes that the

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<sup>2</sup> See Article 9, Rule 23(a); Article 20, Rule 8(e)(5); and Article 11, Rules 3 and 4, respectively. Other provisions that must be eliminated are ones that relate to the “short exempt” order type and that refer to Rule 10a-1. See Article 1, Rule 2(hh) and Article 20, Rule 4(b)(23)(the “short exempt” order type); and Article 1, Rule 1(w) (referring to Rule 10a-1). Although it is eliminating the “short exempt” order type, the Exchange will continue, for 90 days following the Compliance Date, to accept orders marked in this manner to give the Exchange’s participants time to adapt to the change. See Letter from Josephine J. Tao to Jeffrey P. Burns, dated July 2, 2007 (providing no-action relief for SROs that continue to accept orders marked as “short exempt” for a period of 90 days from the Compliance Date).

<sup>3</sup> See Article 9, Rule 23(b)

<sup>4</sup> This provision is one that apparently was inadvertently carried over from the Exchange’s old trading model and is not necessary in the Exchange’s new trading model. A separate provision of the Exchange’s new trading model rules specifically requires that market makers keep data about their positions and report that information to the Exchange upon request. See Article 16, Rule 10. The Exchange will file a separate proposal to eliminate this provision, if it continues to believe that it is appropriate to do so.

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

proposed changes are consistent with Section 6(b)(5) of the Act, because they would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by allowing the CHX to amend its rules to respond to the Commission's elimination of Rule 10a-1 and the amendments to Reg SHO.

*B. Self-Regulatory Organization's Statement of Burden on Competition*

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received from Members, Participants or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate,

it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become operative immediately because such designation is consistent with the protection of investors and the public interest. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.<sup>8</sup>

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR-CHX-2007-17 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 20549-9303.

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<sup>8</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

All submissions should refer to File No. SR-CHX-2007-17. 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 changes 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. Copies of such filing will also be available for inspection and copying at the principal office of the 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 available publicly. All submissions should refer to File No. SR-CHX-2007-17 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Nancy M. Morris  
Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5 TO SR-CHX-2007-17, Amendment No. 1**

Additions to the current rule text are underlined; deletions are [bracketed]  
Markings included in the originally-proposed rule text  
that have been deleted are ~~stricken out~~

**ARTICLE 1**

**Definitions and General Information**

**Rule 1. Definitions**

Whenever and wherever used in these Rules, unless the context requires otherwise, the following terms shall have the respective meanings ascribed to them below:

\* \* \*

w. ["Rule 10a-1 and ]Regulation SHO" means [Rule 10a-1 under the Exchange Act (17 CFR 240.10a-1) and ]Regulation SHO (17 CFR 242.200 et seq.), as amended, and any exemptive, no-action or other relief granted from the requirements of that [these] provision[s] from time to time.

\* \* \*

**Rule 2. Order Types and Conditions**

Unless otherwise specifically defined elsewhere in the CHX Rules, the following terms shall have the respective meanings ascribed to them, for purposes of all CHX Rules. Additional information about order types and conditions can be found in Article 20.

\* \* \*

hh. Reserved. ["Short exempt": an order to sell a security that has been marked "short exempt" under Rule 200(g) of Regulation SHO and which meets the requirements of Rule 200(g)(2) of Regulation SHO.]

\* \* \*

## ARTICLE 9

### General Trading Rules

\* \* \*

#### Rule 23. Short Sales

~~(a)~~ ~~¶~~No Participant shall effect a sell order or sale of any security unless such sell order or sale is effected in compliance with [SEC Rule 10a-1 and] Regulation SHO promulgated under the Exchange Act.

~~(b)~~ In the event that a market maker has a position (long or short) in a security of a company, and such position is greater than or equal to 5% of the outstanding public float of that security, as determined by the company's most recent report on Form 10-K, then such market maker shall give the Exchange immediate written notice of such fact.~~¶~~

\* \* \*

## ARTICLE 11

### Participant Books and Records

\* \* \*

#### Rule 3. Records of Orders and Executions

(a) No change to text.

(b) Subject to the exceptions set out in Interpretations .01, .03, .04 and .06 below, each Participant must record, in such electronic system(s) as the Exchange shall designate, the following details about each order and execution identified in (a)(1) through (3) above:

(1)–(8) No change to text.

(9) Whether the order is short[ or short exempt];

\* \* \*

**Rule 4. Participant Communications**

\* \* \*

**••• Interpretations and Policies:**

.01 No Participant shall use any electronic means of communication for sending orders from the Exchange to trade in another market or trading venue (a "layoff service"), until the Participant, or the provider of the layoff service, has established a process for providing the Exchange for such orders, on a real-time basis and in an electronic format acceptable to the Exchange, the following information:

(1)-(8) No change to text.

(9) Whether the order is short [or short exempt];

\* \* \*

**ARTICLE 20**

**Operation of the Matching System**

\* \* \*

**Rule 4. Eligible Orders**

a. No change to text.

b. Order types and indications. The Matching System shall only accept the following order types or orders with the following indications:

\* \* \*

(23) Reserved. ["Short exempt": an order to sell a security that has been marked "short exempt" under Rule 200(g) of Regulation SHO and which meets the requirements of Rule 200(g)(2) of Regulation SHO.]

\* \* \*

**Rule 8. Operation of the Matching System**

(a) – (d) **No change to text.**

(e) *Execution of certain orders and order types.* The following orders shall be executed within the Matching System as set out below:

\* \* \*

5. Reserved. [Sell short orders. Sell short orders (including odd lot orders) shall be displayed and executed only when permissible under the provisions of Rule 10a-1 and Regulation SHO. When a sell short order cannot be executed or displayed at its limit price under the provisions of the Short Sale Rule and Regulation SHO, the order shall be automatically repriced (without violating its limit price) to the next available price at which it can be executed or displayed, to the extent that the Matching System has sufficient data to determine an appropriate price. If the Matching System cannot determine an appropriate price at which to display or execute the order, the order shall be automatically cancelled.]

\* \* \*

**EXHIBIT 5 TO SR-CHX-2007-17, Amendment No. 1**

Additions are underlined; deletions are [bracketed]

**ARTICLE 1**

**Definitions and General Information**

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#### **Rule 23. Short Sales**

(a) No Participant shall effect a sell order or sale of any security unless such sell order or sale is effected in compliance with [SEC Rule 10a-1 and] Regulation SHO promulgated under the Exchange Act.

(b) In the event that a market maker has a position (long or short) in a security of a company, and such position is greater than or equal to 5% of the outstanding public float of that security, as determined by the company's most recent report on Form 10-K, then such market maker shall give the Exchange immediate written notice of such fact.

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## ARTICLE 11

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(1)–(8) No change to text.

(9) Whether the order is short[ or short exempt];

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.01 No Participant shall use any electronic means of communication for sending orders from the Exchange to trade in another market or trading venue (a "layoff service"), until the Participant, or the provider of the layoff service, has established a process for providing the Exchange for such orders, on a real-time basis and in an electronic format acceptable to the Exchange, the following information:

(1)-(8) No change to text.

(9) Whether the order is short [or short exempt];

\* \* \*

**ARTICLE 20**

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\* \* \*