

amount of a class of preferred stock or the creation of a *pari passu* issue is required to be approved by a majority of the outstanding shares of the class or classes to be affected by such change. However, a majority vote would not be required if, at the time a class of preferred stock was created, the preferred shareholders gave the board of directors the authority to increase the authorized amount of a series of preferred stock or create an additional series of preferred stock equal in preference.

III. Discussion

After careful review, 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 securities exchange and, in particular, with section 6(b)(5) of the Act,⁴ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.⁵

The Commission notes that the proposed rule change will make Amex's listing requirements relating to minimum preferred voting rights substantially similar to those of the New York Stock Exchange LLC ("NYSE").⁶ The Commission believes that the proposed rule change may provide additional flexibility to issuers of preferred stock with regard to their ability to raise capital, while at the same time, ensuring that preferred shareholders will retain important voting rights. The proposal also ensures that the rights and privileges of the preferred shareholders are protected and cannot be changed without prior approval of the preferred shareholders.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-Amex-2007-38) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56194; File No. SR-BSE-2007-32]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Amend the Existing Fee Schedule

August 2, 2007.

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 July 5, 2007, the Boston Stock Exchange, Inc. ("BSE" 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 substantially prepared by the Exchange. The BSE has designated this proposal as one changing a due, fee, or other charge under section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. On July 20, 2007, BSE filed Amendment No. 1 to the proposed rule change.⁵ 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 BSE proposes to amend certain transaction fees set forth in the Boston Equities Exchange ("BeX") fee schedule. The text of the proposed rule change is available at <http://www.bostonstock.com>, at the BSE, and at the Commission's Public Reference Room.

¹ 17 CFR 200.30-3(a)(12).

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ In Amendment No. 1, the Exchange replaced the term Intermarket Sweep Order ("ISO") with the phrase "order routed as a part of an NMS Cross Order" and the term "Reg NMS cross" with the phrase "NMS Cross Order". In addition, the Exchange updated the BeX fee schedule to reflect these changes.

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

On November 20, 2006, the BSE filed File No. SR-BSE-2006-44,⁶ a rule filing that amended the existing BSE fee schedule and established a fee schedule for the BeX, a facility of the Exchange. On March 5, 2007, a subsequent filing, SR-BSE-2007-13,⁷ was made to add a new Smart Order Routing fee. On June 28, 2007, the Exchange filed an additional fee filing, SR-BSE-2007-29,⁸ to lower the rate for this service.

In this filing, the Exchange is proposing to implement a fee for orders routed as a part of an NMS Cross Order,⁹ which the Exchange has developed to help firms comply with the trade-through requirements of Regulation NMS. An NMS Cross Order consists of a priced cross with two quantities: (i) The quantity that the customer wants to cross; and (ii) the "disinterest" quantity, which is the additional single-sided amount that the customer is willing to add in order to fulfill Regulation NMS obligations.

When this new order type is received, the Exchange will look at the best bids and offers at all Regulation NMS venues and route orders, as needed, up to the disinterest quantity. The cross will then be executed and reported back to the customer, along with any executions from the routed orders. If the disinterest quantity is not large enough to satisfy the size of the total trade-through on all markets, no orders will be routed and the entire cross will be rejected.

⁶ See Securities Exchange Act Release No. 54795 (November 20, 2006), 71 FR 68850 (November 28, 2007).

⁷ See Securities Exchange Act Release No. 55529 (March 26, 2007), 72 FR 15734 (April 2, 2007).

⁸ See Securities Exchange Act Release No. 56129 (July 25, 2007), 72 FR 42157 (August 1, 2007).

⁹ See Securities Exchange Act Release No. 55903 (June 13, 2007), 72 FR 33792 (June 19, 2007) (SR-BSE-2007-24).

⁴ 15 U.S.C. 78f(b)(5).

⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ See Section 313.00(C) of the NYSE Listed Company Manual.

⁷ 15 U.S.C. 78s(b)(2).

The orders routed as a result of an NMS Cross Order will be added to the Exchange's other order routing products and will be charged at a rate of \$0.0020 per share if a firm uses its own give-up on another market center and \$0.0060 per share if a firm used a BeX provided give-up on another market center.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of section 6(b) of the Act,¹⁰ in general, and furthers the objectives of section 6(b)(4) of the Act,¹¹ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using Exchange facilities.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act¹² and Rule 19b-4(f)(2) thereunder,¹³ because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission.

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 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.

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-BSE-2007-32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BSE-2007-32. 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 BSE. 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-BSE-2007-32 and should be submitted on or before August 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-15545 Filed 8-8-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56190; File No. SR-CBOE-2007-04]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Amending Its Obvious Error Rule for Equity Options

August 2, 2007.

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 February 21, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 substantially prepared by the Exchange. On July 2, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change.³ 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 Exchange proposes to amend CBOE Rule 6.25, which is the Exchange's rule applicable to the nullification and adjustment of transactions in equity options, to revise its obvious error provision related to "no bid" series. The Exchange is also proposing to make a non-substantive change by adding a cross-reference within the text of Rule 6.25.

Below is the text of the proposed rule change. Proposed new language is in italics and proposed deletions are in [brackets].

Chicago Board Options Exchange, Incorporated Rules

Rule 6.25—Nullification and Adjustment of Equity Options Transactions

RULE 6.25. This Rule governs the nullification and adjustment of transactions involving equity options. Rule 24.16 governs the nullification and adjustment of transactions involving index options and options on ETFs and HOLDERS. Paragraphs (a)(1), [and] (2)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 supersedes and replaces the original filing in its entirety. The substance of Amendment No. 1 is incorporated into this notice.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4(f)(2).

¹⁴ 17 CFR 200.30-3(a)(12).