

**RECORD SOURCE CATEGORIES:**

Records are obtained from the position control system and from the individual.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

By the Commission.

Dated: April 23, 2003.

**J. Lynn Taylor,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47720; File No. SR-BSE-2003-02]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Extending Its Operating Hours for the Trading of Nasdaq Securities**

April 23, 2003.

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 March 17, 2003, the Boston Stock Exchange, Inc. ("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 April 10, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> 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 Exchange seeks to amend the Nasdaq trading rules set forth in the

Rules of the Board of Governors of the Exchange to allow for extended hours for the trading of Nasdaq securities.

Set forth below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

\* \* \* \* \*

**Chapter XXXV**

**Trading in Nasdaq Securities**

\* \* \* \* \*

**Dealings on the Floor—Hours**

Section 8. [Pursuant to Chapter I-B, Sec. 2, Dealings on the Floor—Hours, no member or member organization shall make any bid, offer or transaction upon the floor of the Exchange, issue a commitment to trade through ITS or send an order for a Nasdaq security to a Nasdaq System market maker other than during the hours the Exchange is open for the transaction of business. Nasdaq securities will not be eligible to participate in the Post Primary Session.] *For the purposes of transacting business in Nasdaq securities only, the Exchange shall be open from 7 a.m. until 6:30 p.m. Only transactions in Nasdaq securities will be permitted outside the hours of 9:30 a.m. and 4:15 p.m., in accordance with Chapter I-B, Business Hours, Section 1, Primary Session, and Section 1(a) Post Primary Session.*

\* \* \* \* \*

**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**

The Exchange is proposing an alteration of the hours the Exchange is to be open for trading Nasdaq securities. Presently, Chapter XXXV of the Rules, *Trading in Nasdaq Securities*, Section 8, *Dealings on the Floor—Hours*, limits the hours of trading in Nasdaq securities on the Exchange to the hours of 9:30 a.m. to 4 p.m. The Exchange would delete

the present rule and replace it with one which would permit the transaction of business, in Nasdaq securities only, between the hours of 7 a.m. and 6:30 p.m. The Exchange believes that such an extension of hours would allow Exchange members who trade Nasdaq securities to remain competitive with their counterparts on other exchanges that trade Nasdaq securities pursuant to unlisted trading privileges, as well as NASD members who are permitted to conduct transactions in Nasdaq securities during this extended period. Furthermore, the Exchange believes that such extended hours are contemplated and permitted by Article XI of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis ("OTC/UTP Plan")<sup>4</sup>

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,<sup>5</sup> in general, and Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, to remove impediments to and perfect the mechanism of a free and

<sup>4</sup> The OTC/UTP Plan was initially approved in 1990. See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990). It has subsequently been amended. See also Securities Exchange Act Release Nos. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); 36368 (October 13, 1995), 60 FR 54091 (October 19, 1995); 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995); 36589 (December 13, 1995), 60 FR 65696 (December 20, 1995); 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); 38794 (June 30, 1997), 62 FR 36586 (July 8, 1997); 39505 (December 31, 1997), 63 FR 1515 (January 9, 1998); 40151 (July 1, 1998), 63 FR 36979 (July 8, 1998); 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999); 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000); 43005 (June 30, 2000), 65 FR 42411 (July 10, 2000); 44099 (March 23, 2001), 66 FR 17457 (March 30, 2001); 44348 (May 24, 2001), 66 FR 29610 (May 31, 2001); 44552 (July 13, 2001), 66 FR 37712 (July 19, 2001); 44694 (August 14, 2001), 66 FR 43598 (August 20, 2001); 44804 (September 17, 2001), 66 FR 48299 (September 19, 2001); 45081 (November 19, 2001), 66 FR 59273 (November 27, 2001); 46381 (August 19, 2002), 67 FR 164 (August 23, 2002); 46729 (October 25, 2002), 67 FR 212 (November 1, 2002).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<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 amended the proposal to state that it deemed the proposed rule change to be non-controversial in nature (rather than concerned solely with the administration of the Exchange) and sought immediate effectiveness of the proposed rule change pursuant to Section 19(b)(3)(A) of the Act and waiver of the 30-day operative period for the effectiveness of the rule change proposal. See Letter dated April 10, 2003, from John Boese, Vice President, Legal and Compliance, Exchange, to Katherine England, Assistant Director, Division of Market Regulation, Commission. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that the period to commence on April 10, 2003, the date the Exchange filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

open market and a national market system, and, in general, to protect investors and the public interest.

#### *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*

Written comments were neither solicited nor received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action<sup>7</sup>**

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>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</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 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 waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the Exchange to extend the trading hours for transactions in Nasdaq securities with immediate effect and prevent any unfair competitive disadvantage with respect to the hours in which Nasdaq securities can be traded on the Exchange. For these

reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>10</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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR-BSE-2003-02 and should be submitted by May 21, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47721; File No. SR-MSRB-2003-01]

#### **Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to the Establishment of an Optional Procedure for Electronic Submission of Forms G-37/G-38 and G-37x Under Rule G-37, on Political Contributions and Prohibitions on Municipal Securities Business, and Rule G-38, on Consultants**

April 23, 2003.

On March 21, 2003, the Municipal Securities Rulemaking Board ("MSRB")

filed with the Securities & Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change (File No. SR-MSRB-2003-01). The MSRB's rule change amends Rule G-37, on political contributions and prohibitions on municipal securities business, and Rule G-38, on consultants, by establishing an optional procedure for electronic submission of Forms G-37/G-38 and G-37x.

The proposed rule change was published for notice and comment in the **Federal Register** on April 1, 2003.<sup>3</sup> The Commission did not receive comment letters on the proposed rule change. This order approves the proposed rule change.

### **I. Description of the Proposed Rule Change**

Currently, Rules G-37 and G-38 require brokers, dealers and municipal securities dealers ("dealers") to submit to the MSRB on Form G-37/G-38 certain information regarding political contributions to issuer officials, payments to state and local political parties, issuers with which the dealer has engaged in municipal securities business and consultants engaged by the dealer to obtain municipal securities business. Certain dealers that wish to be exempted from the Form G-37/G-38 submission requirement must submit Form G-37x to the MSRB.

Under the rule change, the MSRB is implementing an optional system of electronic submission by dealers of Forms G-37/G-38 and G-37x to the MSRB. In order to effectuate this electronic system, the MSRB is amending rules G-37 and G-38.<sup>4</sup> The rule change will become effective on the later of June 30, 2003 or 30 days after Commission approval. The MSRB expects that the new electronic submission system will become operational concurrently therewith.

### **II. Summary of Comments**

The Commission did not receive comment letters relating to the proposed rule change.

<sup>7</sup> At the Exchange's request, the Commission corrected the rationale and the citation to the section of the Act pursuant to which the proposed rule change has become immediately effective. Telephone conversation among John Boese, Vice President, Legal and Compliance, Exchange; Christopher B. Stone, Special Counsel, Division of Market Regulation, Commission; and Ann E. Leddy, Attorney, Division of Market Regulation, Commission (April 21, 2003).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> For purposes only of accelerating the operative date of the proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Release No. 34-47565 (Mar. 25, 2003), 68 FR 15782.

<sup>4</sup> Technical amendments to the final sentence of Rule G-38(e) and to Rule G-38(e)(iii) are also made to conform language to usage throughout MSRB rules.