

Dated: October 13, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-26706 Filed 10-22-03; 8:45 am]

BILLING CODE 8010-01-U

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, NW., Washington, DC 20549.

Extension:

Rule 26, SEC File No. 270-78, OMB Control No. 3235-0183.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the matters relating to the previously approved collections of information discussed below.

Rule 26, part 250.26 [17 CFR 250.26] under the Public Utility Holding Company Act of 1935, as amended ("Act"), 15 U.S.C. 79, *et seq.*, establishes financial statement and recordkeeping requirements for public utility holding companies registered under the Act and all their subsidiary companies.

The Commission estimates that the total annual reporting burden of Rule 26 is approximately one (1) hour.

The estimate of average burden hours is made for purposes of the Paperwork Reduction Act and is not derived from a comprehensive or representative survey or study of the costs of complying with the requirements of Commission rules and forms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Comments must

be submitted to OMB within 30 days of this notice.

Dated: October 13, 2003.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form U-7D, SEC File No. 270-75, OMB Control No. 3235-0165.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget request for extension of the previously approved collections of information discussed below.

Form U-7D is used to file the certificate required by rule 7(D)(5) (17 CFR 250.7), under the Public Utility Holding Company Act of 1935 ("Act") 15 U.S.C. 79 *et seq.*, to establish the exempt status of financing entities which own assets leased to electric or gas utility companies for the use in the lessee's utility business. Unless it claims the exemption authorized by those sections and provides sufficient information to meet the statutory tests for the exemption, such financing company would meet the statutory definition of electric or gas utility company, under section 2(a)(3) ("electric") or section 2(a)(4) ("gas") of the Act, and such financing company would consequently be subject to regulation under the Act. Without the information provided on Form U-7D, the Commission would not have adequate access to the data used to establish that the filing company meets the requirements for exemption.

Respondents to the request for information in Form U-7D are registered public utility holding companies and their financing subsidiaries. Respondents must file a Form U-7D in order to receive exempt status. We estimate the average time to prepare the information required by Form U-7D at 3 hours per response based on our informal questioning selected respondents. Since there are

approximately 8 respondents who file each year, the total annual respondent reporting burden is 24 hours at \$115 per hour. There is no possibility of unwarranted disclosure because these are public documents and there are no questions of a sensitive nature.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 13, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-26708 Filed 10-22-03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48652; File No. SR-Amex-2003-81]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Reporting of "At-the-Close" Orders in Nasdaq Securities

October 17, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 8, 2003, the American Stock Exchange LLC ("Amex" 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 prepared by the Exchange. The proposed rule change has been filed by the Amex as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.³ The Commission is publishing this notice to solicit

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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 Amex proposes to amend Rule 109(d) Commentary .02 to accommodate reporting of "at the close" orders in securities listed on the Nasdaq Stock Market, Inc. ("Nasdaq") as "stopped stock" pursuant to Amex Rule 109(d). The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Rule 109 Stopping Stock

(a) through (d) No change.

Commentary

.01 No change.

.02 Paragraph (d) of this rule shall apply to at-the-close orders entered on the Exchange in Nasdaq National Market securities to which the Exchange has extended unlisted trading privileges, except that the Exchange shall [not] disseminate information regarding "pair off" transactions reported pursuant to paragraph (d) as *stopped stock* [, pending implementation of systems changes by] to the Nasdaq Unlisted Trading Privileges Plan Processor [to permit dissemination of "pair off" transactions as "stopped stock"].

* * * * *

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

Amex Rule 109(d) requires that a member holding both buy and sell market on close ("MOC") orders simultaneously must execute any imbalance against the prevailing Exchange bid or offer at the close, and

then must "pair off" remaining buy and sell orders at the price of the immediately preceding sale. Amex Rule 109(d)(1) provides that the "pair off" transaction must be reported to the consolidated last sale reporting system as "stopped stock," to inform the public that limit and limit on close ("LOC") orders entered before the close may remain unexecuted.

The Commission previously approved the Exchange's proposal to exempt reporting "pair off" transactions as "stopped stock" on a pilot basis until the Nasdaq Unlisted Trading Privileges ("UTP") Plan Securities Information Processor ("SIP") could accommodate Amex's request to print a transaction in Nasdaq security as "stopped stock."⁴ Nasdaq has stated that, as of September 15, 2003, the Nasdaq UTP SIP will be able to accommodate Amex's reporting of transactions as "stopped stock," which would include "pair off" transactions under Rule 109(d).⁵

The Exchange, therefore, is proposing to amend Commentary .02 to Rule 109 ("Stopping Stock") to delete the reference to the exemption from disseminating information regarding "pair off" transactions as "stopped stock" pursuant to Rule 109(d). Following the enhancement to the Nasdaq UTP SIP on September 15, 2003, a "pair off" transaction would be printed as "stopped stock" for dissemination by the Nasdaq UTP SIP, in compliance with Rule 109(d).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5),⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.⁸

⁴ See Securities Exchange Act Release No. 47658 (April 10, 2003), 68 FR 19041 (April 17, 2003).

⁵ See UTP Vendor Alert #2003-42, July 18, 2003.

⁶ 15 U.S.C. 78(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ At the request of the Exchange, Commission staff has revised the statutory basis for the proposed rule change to cite to Section 6(b)(5) of the Act, 15 U.S.C. 78f(b)(5). Telephone conversation among Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, Marija Willen,

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.

C. 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 with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change 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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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. 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

Associate General Counsel, Amex, Christopher Stone, Special Counsel, Division, Commission, and Ann E. Leddy, Attorney, Division, Commission (October 7, 2003).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2003-81 and should be submitted by November 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48650; File No. SR-BSE-2003-19]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the LLC Operating Agreement of the Proposed New Exchange Facility To Be Operated by the Boston Options Exchange Group LLC

October 17, 2003.

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 October 16, 2003, 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 prepared by the Exchange. 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

As discussed in detail in the BOX Proposing Release,³ the BSE proposes to establish rules for BOX,⁴ a new Exchange facility, as that term is defined in Section 3(a)(2) of the Act.⁵ BOX would be operated by Boston Options

Exchange Group LLC ("BOX LLC"), a Delaware limited liability company ("LLC"). The BSE is filing the Operating Agreement of BOX LLC ("Operating Agreement" or "Agreement") to establish BOX LLC's governance and operating authority for the facility. The Operating Agreement functions as the source of the company's governance and operating authority and, therefore, functions in a similar manner as by-laws or articles of incorporation function for a corporation. The BSE is requesting confidential treatment of the sections of the Operating Agreement which are confidential business information and which do not relate to the control and governance of BOX LLC. The redacted text of the Operating Agreement appears below; redacted portions are noted in brackets.

* * * * *

Boston Options Exchange Group LLC
Second Amended and Restated
Operating Agreement

This AMENDED AND RESTATED OPERATING AGREEMENT is made as of July 25, 2003, by and among Bourse de Montreal Inc., a company incorporated in Quebec, Canada (the "Bourse"), Boston Stock Exchange, Inc., a company incorporated in Delaware, USA ("BSE"), Interactive Brokers Group LLC, a limited liability company organized under the laws of Connecticut ("IB"), Boston Options Exchange Group LLC, a limited liability company organized under the laws of Delaware ("BOX") and all other Persons who become a party hereto as Members of BOX in accordance with the terms hereof, for the purpose of recording their agreement regarding the affairs of BOX and the conduct of its business.

WHEREAS, on January 16, 2002 the Bourse, BSE and IB caused a Certificate of Formation (the "Certificate") in the form of *Exhibit 1* hereto to be filed with the Office of the Secretary of State of the State of Delaware for the purpose of commencing the existence of BOX pursuant to the Act (as defined below);

WHEREAS, the Bourse, BSE, and IB formed BOX for the purpose of developing and operating an electronic market as a facility of the BSE for trading (i) options on Individual U.S. Equities, U.S. equity indices and U.S. Exchange traded funds and (ii) single stock futures; and

WHEREAS, subsequent to the execution of this Agreement, it is anticipated that BOX will enter into each of the Related Agreements;

WHEREAS, the Bourse, BSE, IB and BOX are parties to that certain Operating Agreement of BOX, dated as

of January 17, 2002 (the "Original Operating Agreement"), as amended by an Amended and Restated Operating Agreement dated as of June 21, 2002 (the "Amended Operating Agreement"); and

WHEREAS, the Members desire to amend and restate the Amended Operating Agreement upon the terms and conditions hereinafter set forth.

Accordingly, the parties hereby agree to amend and restate the Amended Operating Agreement as follows:

Article 1—Definitions

1.1 Certain Defined Terms: As used in this Agreement, the following capitalized terms have the following meanings.

"Act" means the Delaware Limited Liability Company Act, 6 Del. G.L. § 18-101, *et seq.*, as amended and in effect from time to time, and any successor statute.

"Additional Capital Contribution" means any Capital Contribution effected after completion of the Initial Capital Contributions pursuant to Section 7.3 hereof.

"Advisors" means, with respect to any Person, any of such Person's attorneys, accountants or consultants.

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with, such Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise with respect to such Person. A Person is presumed to control any other Person, if that Person: (i) Is a director, general partner, or officer exercising executive responsibility (or having similar status or performing similar functions); (ii) directly or indirectly has the right to vote 25 percent or more of a class of voting security or has the power to sell or direct the sale of 25 percent or more of a class of voting securities of the Person; or (iii) in the case of a partnership, has contributed, or has the right to receive upon dissolution, 25 percent or more of the capital of the partnership.

"Agreement" means this Operating Agreement, including all exhibits and schedules hereto, as amended, restated or supplemented from time to time.

"Bankruptcy" has the meaning ascribed thereto in Section 18-304 of the Act.

"Board" has the meaning set forth in Section 4.1 hereof.

"Bourse" has the meaning set forth in the preamble.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 47186 (January 14, 2003), 68 FR 3062 (January 22, 2003) (SR-BSE-2002-15) ("BOX Proposing Release").

⁴ The term "BOX" means the Boston Options Exchange or Boston Stock Exchange Options Exchange, an options trading facility of the Exchange under Section 3(a)(2) of the Act. See proposed BOX Rules, Chapter I, *General Provisions*, § 1(a)(6) (definition of "BOX").

⁵ 15 U.S.C. 78c(a)(2).