

it did in the previous orders,<sup>15</sup> that the *de minimis* exemption does not relieve brokers and dealers of their best execution obligations under the federal securities laws and SRO rules.

Accordingly, it is ordered, pursuant to Section 11A of the Act and Rule 608(e) thereunder,<sup>16</sup> that participants of the ITS Plan and their members are hereby exempt from Section 8(d) of the ITS Plan during the period covered by this Order with respect to transactions in DIAs and SPYs that are executed at a price that is no more than three cents lower than the highest bid displayed in CQS and no more than three cents higher than the lowest offer displayed in CQS. This Order extends the *de minimis* exemption from June 29, 2006 through February 4, 2007.

By the Commission.

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54066; File No. SR-BSE-2006-24]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program That Allows for No Minimum Size Order Requirement for the Price Improvement Period Process on the Boston Options Exchange

June 29, 2006.

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 June 19, 2006, 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 BSE. The Exchange has designated the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in [brackets].

\* \* \* \* \*

#### Chapter V, Section 18

##### Supplementary Material to Section 18

.01 During the extended Pilot Period [from August 7, 2005 to July 18, 2006], there will be no minimum size requirement for Customer Orders to be eligible for the PIP process. During this extended Pilot Period, BOXR will continue to submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size PIP orders, that there is significant price improvement for all orders executed through the PIP, and that there is an active and liquid market functioning on BOX outside of the PIP mechanism. Any data which is submitted to the Commission by BOXR will be provided on a confidential basis. *The Pilot Period shall expire on July 18, 2007.*

.02 No Change.

\* \* \* \* \*

#### 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 purpose of the proposed rule change is to extend a Pilot Program under the Rules of the Boston Options Exchange ("BOX") for an additional year. The Pilot Program allows BOX to have no minimum size requirement for orders entered into the Price

Improvement Period ("PIP") process.<sup>5</sup> The proposed rule change retains the text of Supplementary Material .01 to Section 18 of Chapter V of the BOX Rules and seeks to extend the operation of the PIP Pilot Program until July 18, 2007.

The Exchange notes that the PIP Pilot Program provides small customer orders with benefits not available under the rules of other exchanges. One of the important factors of the PIP Pilot Program is that it guarantees members the right to trade with their customer orders that are less than 50 contracts. In particular, any order entered into the PIP is guaranteed an execution at the end of the auction at a price at least a penny better than the national best bid or offer.

In further support of this proposed rule change, and as required by the Original PIP Pilot Program Approval Order, the Exchange represents that it has been submitting to the Commission a monthly PIP Pilot Program Report, offering detailed data from and analysis of the PIP Pilot Program.

###### 2. Statutory Basis

The Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the Pilot Program for another year. The Exchange represents that the proposed rule change is designed to provide investors with real and significant price improvement regardless of the size of the order. Accordingly, the Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to provide price improvement to any order, which is consistent with the public interest and protection of investors from a best execution standpoint. Additionally, the Exchange believes that price improvement to any size order creates competition for the best execution of all orders, without unduly burdening competition.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>5</sup> The Pilot Program is currently set to expire on July 18, 2006. See Securities Exchange Act Release No. 52149 (July 28, 2005), 70 FR 44704 (August 3, 2005). See also Securities Exchange Act Release No. 49068 (January 13, 2004), 69 FR 2768 (January 20, 2004) ("Original PIP Pilot Program Approval Order").

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See *supra* notes 3 to 7.

<sup>16</sup> 17 CFR 242.608(e).

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

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

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

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

*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 Exchange has designated the foregoing rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder<sup>9</sup> because the rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the day on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange asserts that this proposed rule filing does not raise any additional or substantive issues from those raised when the Exchange sought to implement the Pilot Program. The Exchange also asserts that the information provided in the Pilot Program Reports supports the representations made at that time.

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](mailto:rule-comments@sec.gov). Please include File Number SR-BSE-2006-24 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 20549-1090.

All submissions should refer to File Number SR-BSE-2006-24. 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. Copies of such filing also will be available for inspection and copying at the principal office of 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-2006-24 and should be submitted on or before July 27, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54067; File No. SR-CBOE-2006-57]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend CBOE Rule 8.7 Relating to Bid/Ask Differentials**

June 29, 2006.

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 June 21, 2006, 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 prepared by the Exchange. The CBOE has filed this proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 proposes to amend CBOE Rule 8.7, "Obligations of Market-Makers," relating to bid/ask differentials in Hybrid and Hybrid 2.0 classes. The text of the proposed rule change appears below. Additions are *italicized*.

\* \* \* \* \*

**Chicago Board Options Exchange, Incorporated Rules**

\* \* \* \* \*

**Rule 8.7—Obligations of Market-Makers**

Rule 8.7. (a) No change.

(b) No change.

(i)–(iii) No change.

(iv) To price options contracts fairly by, among other things, bidding and/or offering in the following manner:

(A) No change.

(B) No change.

(C) Option Classes Trading on the Hybrid Trading System and Hybrid 2.0 Platform. Except as provided in subparagraphs (i) and (ii) below, option classes trading on the Hybrid Trading System and the Hybrid 2.0 Platform may be quoted electronically with a difference not to exceed \$5 between the bid and offer regardless of the price of the bid. The provisions of Rule 8.7(b)(iv)(A) shall apply to any quotes given in open outcry in Hybrid classes and Hybrid 2.0 classes.

i. The \$5 bid/ask differential stated in subparagraph (C) above shall not apply to *at-the-money series* or in-the-money series where the quote width on the primary market of the underlying security, or the quote width calculated by the Exchange or its agent for various indices pursuant to Interpretation .08, is wider than \$5. For these series, the bid/ask differential may be as wide as the quote width on the primary market of the underlying security or calculated by the Exchange or its agent, as applicable.

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

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

<sup>10</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> 15 U.S.C. 78s(b)(3)(A)(iii).

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