

exchange.<sup>7</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the rules of the Exchange be designed 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.

The Commission believes that the quote assist feature should help to ensure that eligible customer limit orders are displayed within the required time period. The Commission notes that the Exchange represents that it will continue to conduct surveillance to ensure that specialists comply with their obligation to execute or book all eligible limit orders within the time period prescribed by Exchange rules, and that excessive reliance upon the quote assist feature will be reviewed by the Exchange as a possible violation of the Rule.

The Exchange has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of notice of the filing in the **Federal Register**. The Commission believes that granting accelerated approval will allow the Exchange to continue to operate the Pilot Program without interruption. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> for approving the proposal prior to the thirtieth day after publication of the notice of the filing thereof in the **Federal Register**.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-Amex-2007-41) is hereby approved on an accelerated basis.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-8734 Filed 5-7-07; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>7</sup> In approving the proposed rule, the Commission has considered the rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55684; File No. SR-BSE-2007-17]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the \$1 Strike Pilot Program for an Additional Year

April 30, 2007.

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 April 25, 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 BSE. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it 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 its rules to extend its \$1 strike pilot program ("Pilot Program") for an additional year until June 5, 2008. The text of the proposed rule change is available at BSE, the Commission's Public Reference Room, and <http://www.bostonstock.com>.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BSE 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. BSE 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 the Pilot Program<sup>5</sup> under the Rules of the Boston Options Exchange ("BOX") for an additional year. The Pilot Program allows the Boston Options Exchange Regulation ("BOXR"), the department of BSE with the delegated regulatory authority over BOX, to list options on a pilot basis on up to five selected underlying equities trading below \$20 at \$1 strike price intervals and to list \$1 strike prices on any equity option included in the \$1 strike price pilot program of any other options exchange until June 5, 2007. The proposed rule change retains the text of Supplementary Material .02 to Section 6 of Chapter IV of the BOX Rules, as currently established on a pilot basis, and seeks to extend the operation of the Pilot Program for another year until June 5, 2008.

Chapter IV, Section 6 of the BOX Rules establishes guidelines regarding the addition of options series for trading on BOX. Under the Pilot Program, in order to be eligible for selection into the Pilot Program, the underlying stock must close below \$20 on its primary market on the previous trading day. If selected for the Pilot Program, BOXR may list strike prices at \$1 intervals from \$3 to \$20, but no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price on its primary market on the previous day. BOXR also may list \$1 strikes on any other options class designated by another options exchange that employs a similar pilot program under its rules. BOXR may not list long-term option series ("LEAPS")<sup>®</sup> at \$1 strike price intervals for any class selected for the Pilot Program. BOXR also is restricted from listing any series that would result in strike prices being \$0.50 apart.

The Pilot Program was initially proposed in reaction to the general decrease in stock prices and the proliferation of stocks trading below \$20, including some of the most widely held and actively traded equity securities listed on the New York Stock

<sup>5</sup> BSE implemented the Pilot Program in February 2004 and extended it three times through June 5, 2007. See Securities Exchange Act Release Nos. 49292 (February 20, 2004), 69 FR 8993 (February 26, 2004) (SR-BSE-2004-01) (establishing the Pilot Program); 49806 (June 4, 2004), 69 FR 32640 (June 10, 2004) (SR-BSE-2004-22); 51778 (June 2, 2005), 70 FR 33562 (June 8, 2005) (SR-BSE-2005-18); and 53855 (May 24, 2006), 71 FR 30973 (May 31, 2006) (SR-BSE-2006-19).

<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).

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

Exchange, the American Stock Exchange, and Nasdaq. BSE notes that many of these stocks are still trading below \$20, including, for example, Oracle, Micron Technology, EMC Corp, and Motorola.

When a stock underlying an option trades at a lower price, it requires a larger percentage gain in the price of the stock for an option to become in-the-money. For example, if a stock trades at \$10, an investor that wants to purchase a slightly out-of-the-money call option would have to buy the \$12.50 call. At these levels, the stock price would need to increase by 25% to reach in-the-money status. BSE notes that a 25% or higher gain in the price of the underlying stock is especially large given the lessened degree of volatility that recently has accompanied many stocks and options. According to BSE, listing additional strike prices on these classes has allowed BOX Participants to provide their customers with greater trading flexibility in achieving their investment strategies. In further support of this proposed rule change, the Exchange submitted to the Commission a Pilot Program Report, attached as Exhibit 3 to the filing, offering detailed data from and analysis of the 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, without adversely affecting systems capacity. The proposed rule change is designed to provide investors with greater trading opportunities, and the flexibility and ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. 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 of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed 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 of a free and 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 not necessary or appropriate in the 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

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, 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>910</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,

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

<sup>9</sup> 17 CFR 240.19b-4(f)(6). Rule 19b-4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. BSE has satisfied the five-day pre-filing requirement. In the event that BSE proposes to: (1) Extend the Pilot Program beyond June 5, 2008; (2) expand the number of options eligible for inclusion in the Pilot Program; or (3) seek permanent approval of the Pilot Program, BSE will submit a Pilot Program report to the Commission along with the filing of its proposal to extend, expand, or seek permanent approval of the Pilot Program. BSE will file any proposal to expand or seek permanent approval of the Pilot Program and the Pilot Program report with the Commission at least 60 days prior to the expiration of the Pilot Program. The Pilot Program report will cover the entire time the Pilot Program was in effect and will include: (1) Data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of \$1 strike price intervals for the options BSE selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of BSE's, the Options Price Reporting Authority's, and vendors' automated systems; (5) any capacity problems or other problems that arose during the operation of the Pilot Program and how BSE addressed them; (6) any complaints that BSE received during the operation of the Pilot Program and how BSE addressed them; and (7) any additional information that would help to assess the operation of the Pilot Program.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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 No. SR-BSE-2007-17 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 No. SR-BSE-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 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 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 No. SR-BSE-2007-17 and should be submitted on or before May 29, 2007.

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

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

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-8733 Filed 5-7-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55679; File No. SR-NYSEArca-2007-35]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees and Charges

April 27, 2007.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on April 3, 2007, NYSE Arca, Inc. (the "Exchange"), through its wholly owned subsidiary, NYSE Arca Equities, Inc. ("NYSE Arca Equities"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Exchange. The Exchange has filed this proposal pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposed rule change 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

NYSE Arca is proposing to amend its Schedule of Fees and Charges for Exchange Services ("Schedule"). The text of the proposed rule change is available at <http://www.nysearca.com>, at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### 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 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 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 this filing is to amend the existing NYSE Arca Rate Schedule by revising or eliminating certain fees and adding clarifying language to either footnotes or explanatory text, associated with certain fees. The Exchange also proposes making minor technical changes to the Schedule. A brief description of each proposed change is shown below.

##### OTP Trading Participant Rights

NYSE Arca Market Makers pay a fee of \$4,000 per month for each Options Trading Permit (OTP) used. The fee is presently capped at \$16,000 per month, which represents four OTPs. Pursuant to NYSEArca Rule 6.35(d)(4), a Market Maker with four OTPs is permitted to trade all issues on the Exchange. Because of this provision, there would never be an occasion for a Market Maker to need more than four OTPs, thereby negating any need for a fee cap. As a result, the Exchange proposes to eliminate the \$16,000 fee cap from the Schedule.

##### LMM Options Issue Relinquishment Fee

This fee was initially implemented to help offset the costs incurred by the Exchange when a Lead Market Maker ("LMM") relinquished an allocated option issue. Previously, the relinquishment process involved administrative and technological changes, both of which were mostly manual processes. Much of the process has now been automated and the associated cost has been significantly reduced. Accordingly, the Exchange proposes eliminating the Issue Relinquishment Fee in its entirety.

##### DEA Fee

The Exchange charges a one time \$75 registration fee, for new applicants, when the Exchange also acts as the Designated Examining Authority. This fee helps to offset administrative expenses involved in processing new applications. Much of the processing is now done over the NASD Central Registration Depository ("CRD"). Included in the fees that NASD collects

on behalf of the Exchange, is a \$55 assessment for new applicants. The Exchange believes that these fees are duplicative and as such, will eliminate the \$75 one time registration fee.

##### Weekly Bulletin Subscription Fee

NYSE Arca distributes a Weekly Bulletin ("Bulletin") to OTP Holders and OTP Firms in order to provide them with regulatory bulletins, rule adoption notices, and other official communications. The Bulletin has been available either electronically or via U.S. Mail. To offset the cost of postage and handling, the Exchange charges a \$200 per year subscription fee to anyone electing to receive the Bulletin via regular mail.

NYSE Arca Rule 2.25 requires that Each OTP Holder and OTP Firm must maintain with NYSE Arca an electronic mail account for communication with the NYSE Arca. Presently, all OTP Holders and OTP Firms receive the Bulletin via e-mail subscriptions. As a result, the Exchange will no longer offer the option of receiving the Bulletin via regular mail. Therefore, the Exchange proposes eliminating the Subscription Fee.

##### Transaction Fees

The Exchange proposes making minor changes to the Order Types included in the Transaction Fee section of the Schedule.

Orders executed on behalf of registered Broker Dealers ("BD"), or Broker Dealer Firms, are presently assessed the "BD rate." In order to avoid any misunderstanding and to clarify that the "BD rate" is applicable to the BD Firms as well as the BDs, the BD Electronic rate and BD Manual rate will now read "Broker Dealer & Firm Electronic" and "Broker Dealer & Firm Manual."

Presently, the "Firm rate" applies to any transaction involving a proprietary trading account of an OTP Firm that has a customer of that OTP Firm on the contra side of the transaction. This explanation presently appears on the Schedule as a footnote to the Firm fee. This practice is generally referred to as "facilitating" an order. In order to better explain that the "Firm rate" is only applicable when a firm facilitates their customer's order, the Schedule will now read "Firm Facilitation."

##### Marketing Charge—QQQQ

The Exchange assesses Market Makers a Marketing Charge on certain transactions. The Standard and Poor's Depository Receipts (QQQQ) carry a \$1.00 per contract charge. Marketing Charges are not assessed on issues that

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).