

credited to the specialist account for that month's charges.

In order for a specialist to be subject to the fee rebates under this proposal, the Exchange will require that specialists use the "Auto Route" functionality in ANTE for orders up to 1,000 contracts.<sup>8</sup> Auto Route automatically sends a P/A Order through the Linkage to execute against the NBBO at another options exchange.<sup>9</sup>

The Exchange believes that this proposal to rebate specialist transaction charges associated with P/A Orders is necessary in order for the Exchange to remain competitive with other options exchanges that currently provide transaction fee rebates/credits for executing orders through the Linkage. The Exchange states that both the Chicago Board Options Exchange, Incorporated and the Philadelphia Stock Exchange, Inc. have fee rebate or credit programs for fees incurred executing orders through the Linkage.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>11</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange believes that the proposal provides for an equitable allocation of reasonable fees among members consistent with Section 6(b)(4),<sup>12</sup> by rebating/crediting transaction fees incurred by a specialist as a result of the obligation imposed by the sending of P/A Orders through the Linkage.

### 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.

<sup>8</sup> As long as a specialist satisfies this condition, such specialist would be eligible for the fee rebate, regardless of the size of the order received. For example, if the specialist satisfies the rebate condition and sets the Auto Route functionality in ANTE for orders up to 1,000 contracts, such specialist would be eligible for the fee rebate even though the order received is greater than 1,000 contracts and thereby not subject to auto routing but to manual handling by the specialist. See April 1 E-mail, *supra* note 6.

<sup>9</sup> Auto Route automatically sends a P/A Order through the Linkage to execute against the NBBO at another options exchange if such order is not executable against the Amex best bid or offer. See April 1 E-mail, *supra* note 6.

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

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> *Id.*

### 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

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii)<sup>13</sup> of the Act and Rule 19b-4(f)(2)<sup>14</sup> thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the Exchange. 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-Amex-2008-28 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-Amex-2008-28. 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. 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-Amex-2008-28 and should be submitted on or before May 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-7656 Filed 4-10-08; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57630; File No. SR-BSE-2008-22]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Amending Its Make or Take Linkage Transaction Fees

April 7, 2008.

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 3, 2008, the Boston Stock Exchange ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons and is approving the proposed rule change on an accelerated basis.

<sup>15</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>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend, retroactively effective to March 28, 2008, the Liquidity Make or Take Pricing Structure ("Make or Take Pricing")—Intermarket Linkage Transaction fees ("Linkage Fees") portion of the Fee Schedule of the Boston Options Exchange ("BOX").<sup>3</sup> The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.bostonoptions.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, 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 III 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 to amend, retroactively effective to March 28, 2008, Section 7(c) of the BOX Fee Schedule in order to revise the Make or Take Pricing Linkage Fees portion of the BOX Fee Schedule, so as to conform it with fee changes the Exchange recently proposed for Make or Take Pricing within non-Penny Pilot Program classes.<sup>4</sup>

Executions on BOX resulting from orders sent via the Intermarket Option Linkage ("Linkage Orders") are subject to the same billing treatment as other broker-dealer orders. On September 6, 2007, the Exchange introduced the Make or Take Pricing for all classes contained in the Penny Pilot Program.<sup>5</sup>

Since Linkage Orders that are sent to and executed on BOX take liquidity, such orders are assessed a \$0.45 per contract fee for executed transactions in issues participating in the Penny Pilot Program.<sup>6</sup>

Furthermore, on November 30, 2007, the Exchange filed a rule proposal with the Commission, which added the twenty five (25) most actively traded options classes on BOX that at that time were not included within the Penny Pilot Program ("M or T Non-Penny Pilot Classes") to the Make or Take Pricing.<sup>7</sup> Recently, nineteen (19) of these M or T Non-Penny Pilot Classes were included in an expansion of the Penny Pilot Program.<sup>8</sup> As a result, on March 28, 2008, the Exchange filed with the Commission a proposal that eliminates the Make or Take Pricing for M or T Non-Penny Pilot Classes.<sup>9</sup>

In conjunction with the elimination of this fee, the Exchange is now proposing to also eliminate the \$0.50 per contract Make or Take Pricing for Linkage Orders in these M or T Non-Penny Pilot Classes. Consequently, the Linkage Fees associated with the Make or Take Pricing will only apply to Linkage Orders in any class of options that is included in the Penny Pilot Program. The standard Linkage Fees shall apply to those options classes that are not part of the Penny Pilot Program.<sup>10</sup> The standard Linkage Fee is \$0.20 per contract. Because the Make or Take Pricing for M or T Non-Penny Pilot Classes was eliminated on March 28, 2008, and the Exchange is seeking to reduce the fee charged, the Exchange requests that the effective date of the proposed rule change be retroactive to March 28, 2008.

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the

Act,<sup>11</sup> in general, and Section 6(b)(4) of the Act,<sup>12</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities for the purpose of executing Linkage Orders that are routed to the Exchange from other market centers.

### 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 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. 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-2008-22 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-2008-22. 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

<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meanings prescribed under the BOX Rules.

<sup>4</sup> See Securities Exchange Act Release No. 57618 (April 4, 2008) (SR-BSE-2008-21) (eliminating the Make or Take Pricing Structure for non-Penny Pilot Program classes).

<sup>5</sup> See Securities Exchange Act Release No. 56371 (September 7, 2007), 72 FR 52401 (September 13, 2007) (SR-BSE-2007-43). The Exchange may trade options contracts in one-cent increments in certain approved issues as part of the Penny Pilot Program through March 27, 2009. See Securities Exchange

Act Release No. 56566 (September 27, 2007), 72 FR 56400 (October 3, 2007) (SR-BSE-2007-40).

<sup>6</sup> See Securities Exchange Act Release No. 56371 (September 7, 2007), 72 FR 52401, 52402 (September 13, 2007) (SR-BSE-2007-43), which provides that "Linkage Orders that are not executed upon receipt are rejected back to the sender and are never posted in the BOX Book. Therefore, a Linkage Order would never be eligible to receive a credit of the Transaction Fee."

<sup>7</sup> See Securities Exchange Act Release No. 56948 (December 12, 2007), 72 FR 72426 (December 20, 2007) (SR-BSE-2007-52).

<sup>8</sup> See Securities Exchange Act Release No. 57566 (March 26, 2008), 73 FR 18013 (April 2, 2008) (SR-BSE-2008-20). This most recent expansion added twenty eight (28) of the most actively traded multiply listed options classes, according to Clearing Corporation volume, to the Penny Pilot Program.

<sup>9</sup> See note 4 *supra*.

<sup>10</sup> The BOX Fee Schedule can be found on the BOX Web site at [www.bostonoptions.com](http://www.bostonoptions.com).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

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 Exchange. 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-2008-22 and should be submitted on or before May 2, 2008.

#### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, 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<sup>13</sup> and, in particular, with the requirements of Section 6(b) of the Act.<sup>14</sup> In particular, the Commission finds that the Exchange's proposal is consistent with Section 6(b)(4) of the Act,<sup>15</sup> which requires that the rules of the Exchange provide for the equitable allocation or reasonable dues, fees, and other charges among its members and other persons using its facilities. The Commission notes that the proposal conforms Linkage Fees with those fees charged on other broker-dealer executions.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> for approving the proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission notes that the Make or Take Pricing for M or T Non-Penny Pilot Classes was eliminated on March 28, 2008.<sup>17</sup> Further, because the Exchange is proposing to reduce the fee charged from \$0.50 per contract to \$0.20 per contract for those M or T Non-Penny Pilot Classes not included in the Penny Pilot Program expansion, granting accelerated approval on a retroactive basis would allow the Exchange to

implement a lower fee for market participants executing Linkage Orders at the same time as the Exchange's related fee changes, which should benefit investors and reduce confusion.<sup>18</sup>

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>19</sup> that the proposed rule change (SR-BSE-2008-22) is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-7781 Filed 4-10-08; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57622; File No. SR-FINRA-2008-012]

#### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Technical Amendments to Incorporated NYSE Rule Interpretation 344/02

April 4, 2008.

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 4, 2008, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change as described in Items I and II below, which items have been prepared substantially by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to amend Incorporated NYSE Rule Interpretation 344/02 (Research Analysts and Supervisory Analysts) (the "Interpretation") to make a non-substantive, technical change to the Interpretation text.<sup>4</sup>

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

\* \* \* \* \*

#### Rule 344 Research Analysts and Supervisory Analysts

/01 No Change.

/02 Foreign Research Analysts

#### Exemption

No change.

#### Supervisory Review

No Change.

#### Disclosure

In publishing or otherwise distributing globally branded research reports partially or entirely prepared by a foreign research analyst, a member organization must prominently disclose:

(1) each affiliate contributing to the research report;

(2) the names of the foreign research analysts employed by each contributing affiliate;

(3) that such research analysts are not registered/qualified as research analysts with the NYSE and/or NASD; and

(4) that such research analysts may not be associated persons of the member organization and therefore may not be subject to the NYSE Rule 472 restrictions on communications with a subject company, public appearances and trading securities [company, public appearances and trading securities] held by a research analyst account.

The disclosures required by this Rule must be presented on the front page of the research report or the front page must refer to the page on which the disclosures can be found. In electronic research reports, a member may hyperlink to the disclosures. References and disclosures must be clear, comprehensive and prominent.

<sup>4</sup> As part of the consolidation of NASD and NYSE Member Regulation, FINRA incorporated into its rulebook certain NYSE rules related to member firm conduct ("Incorporated NYSE Rules"). As a result, the current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) the Incorporated NYSE Rules. While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to members of both FINRA and the NYSE, referred to as Dual Members.

<sup>13</sup> In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(4).

<sup>16</sup> 15 U.S.C. 78s(b)(2).

<sup>17</sup> See note 4 *supra*.

<sup>18</sup> See note 8 *supra* and accompanying text.

<sup>19</sup> 15 U.S.C. 78s(b)(2).

<sup>20</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> 17 CFR 240.19b-4(f)(6).