

18f-3 plan").<sup>4</sup> Approval of the plan must occur before the fund issues any shares of multiple classes and whenever the fund materially amends the plan. In approving the plan, a majority of the fund board, including a majority of the fund's independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f-3 plan is intended to ensure that the fund compiles information relevant to the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

There are approximately 5,300 multiple class funds offered by 1,120 registrants.<sup>5</sup> Based on a review of typical rule 18f-3 plans, the Commission's staff estimates that the 1,120 registrants together make an average of 560 responses each year to prepare and approve a written rule 18f-3 plan, requiring approximately 10 hours per response and a total of 5,600 burden hours per year in the aggregate.<sup>6</sup> The staff estimates that preparation of the rule 18f-3 plan may require 6 hours of the services of an attorney employed by the fund, at a cost of approximately \$295 per hour for professional time,<sup>7</sup> and approval of the plan may require 4 hours of the services of the board of directors, at a cost of approximately

\$2000 per hour.<sup>8</sup> The staff therefore estimates that the aggregate annual cost of complying with the paperwork requirements of the rule is approximately \$5,471,200 ((6 hours × 560 responses × \$295 = \$991,200) + (4 hours × 560 responses × \$2000 = 4,480,000)).

The estimated annual burden of 5,600 hours represents a decrease of 110 hours over the prior estimate of 5,710 hours. The decrease in burden hours is attributable to a change in the estimate of the number of responses that are submitted pursuant to the rule.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is mandatory. Responses will not be kept confidential. 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 Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Charles Boucher Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

January 5, 2009.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-159 Filed 1-8-09; 8:45 am]

**BILLING CODE 8011-01-P**

## 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 20549-0213.

#### Extension:

<sup>8</sup> This hourly rate estimate is derived from fund representatives.

Rule 30b2-1; SEC File No. 270-213; OMB Control No. 3235-0220.

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 (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 30b2-1 (17 CFR 270.30b2-1) under the Investment Company Act of 1940 (15 U.S.C. 80a) requires the filing of four copies of every periodic or interim report transmitted by or on behalf of any registered investment company to its stockholders.<sup>1</sup> This requirement ensures that the Commission has information in its files to perform its regulatory functions and to apprise investors of the operational and financial condition of a registered investment companies.<sup>2</sup>

Registered management investment companies are required to send reports to stockholders at least twice annually. In addition, under rule 30b2-1, each registered investment company is required to file with the Commission Form N-CSR (17 CFR 274.128), certifying the financial statements.<sup>3</sup> The annual burden of filing the reports is included in the burden estimate for Form N-CSR; however, we are requesting one burden hour remain in inventory for administrative purposes.

The burden estimate for rule 30b2-1 is made solely for the purposes of the Act and is not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

The collection of information under rule 30b2-1 is mandatory. The information provided by rule 30b2-1 is not kept confidential. 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 OMB 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 Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to:

<sup>1</sup> Most filings are made via the Commission's electronic filing system; therefore, paper filings under Rule 30b2-1 occur only in exceptional circumstances. Electronic filing eliminates the need for multiple copies of filings.

<sup>2</sup> Annual and periodic reports to the Commission become part of its public files and, therefore, are available for use by prospective investors and stockholders.

<sup>3</sup> Rule 30b2-1(a) [17 CFR 270.30b2-1(a)].

<sup>4</sup> Rule 18f-3(d).

<sup>5</sup> This estimate is based on data from Form N-SAR, the semi-annual report that funds file with the Commission. In previous years, the staff estimated that each multiple class fund prepared and approved a rule 18f-3 plan. However, the staff has revised this estimate to reflect its belief that most registrants prepare and approve a single rule 18f-3 plan for all series funds offered by the registrants.

<sup>6</sup> The estimate reflects the assumption that each registrant prepares and approves a rule 18f-3 plan every two years when issuing a new fund or new class or amending a plan (or that 560 of all 1,120 registrants prepare and approve a plan each year). The estimate assumes that the time required to prepare a plan is 6 hours per plan (or 3360 hours for 560 registrants annually), and the time required to approve a plan is an additional 4 hours per plan (or 2240 hours for 560 registrants annually).

<sup>7</sup> This hourly rate estimate is derived from annual salaries reported in: Securities Industry and Financial Markets Association, Management and Professional Earnings in the Securities Industry (2007), modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

Shagufta\_Ahmed@omb.eop.gov; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

January 5, 2009.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-160 Filed 1-8-09; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59197; File No. SR-BSE-2008-52]

### Self-Regulatory Organizations; the Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rules Relating to Obvious Error Provisions To Address Catastrophic Errors, Erroneous Quotes or Prints in the Underlying Security, and Some Additional Modifications

January 5, 2009.

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 December 24, 2008, the Boston Stock Exchange, Inc.) ("BSE" or the "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 prepared by BSE. The Exchange filed the proposed rule change as a "non-controversial" proposed 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 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 Chapter V, Section 20 (Obvious Errors) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to address catastrophic errors ("Catastrophic Errors") as well as erroneous quotes or prints in the

underlying security and some additional modifications to this section. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at [http://nasdaqtrader.com/Trader.aspx?id=Boston\\_Stock\\_Exchange](http://nasdaqtrader.com/Trader.aspx?id=Boston_Stock_Exchange).

#### 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 self-regulatory organization 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 self-regulatory organization 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 amend Chapter V, Section 20 of the BOX Rules (the "Obvious Error Rule") to address certain extreme circumstances. In particular, the Exchange proposes to add criteria for identifying "Catastrophic Errors" and making adjustments when Catastrophic Errors occur, as well as a streamlined procedure for reviewing actions taken in these extreme circumstances. This proposed rule change also seeks to incorporate provisions within the BOX Obvious Error Rule which will allow for the nullification or adjustment of trades that are the result of either an erroneous quote or print in the underlying security. In addition, the proposed rule also amends the Supplementary Material to remove references to a \$.05 offer and to provide that executions may be busted, if at least one strike below (for calls) or above (for puts), rather than the three strikes.

The Exchange notes that, currently under the Obvious Error Rule, trades that result from an Obvious Error may be adjusted or busted according to objective standards. Under the rule, whether an Obvious Error has occurred is determined by comparing the execution price to the Theoretical Price of the option. The rule requires that participants notify the Market Operations Center ("MOC") within a short time period following the

execution of a trade (five minutes for market makers and 20 minutes for non-market makers) if they believe the trade qualifies as an Obvious Error. Trades that qualify for adjustment are adjusted under the rule to a price that matches the Theoretical Price plus or minus an adjustment value, which is \$.15 if the theoretical value is under \$3 and \$.30 if the theoretical value is at or above \$3. By adjusting trades above or below the Theoretical Price, the rule assesses a "penalty" in that the adjustment price is not as favorable as what the party making the error would have received had it not made the error.

In formulating the Obvious Error Rule, the Exchange has weighed carefully the need to assure that one market participant is not permitted to receive a wind-fall at the expense of another market participant that made an Obvious Error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. The Exchange states that, while it believes that the Obvious Error Rule strikes the correct balance in most situations, in some extreme situations, participants may not be aware of errors that result in very large losses within the time periods required under the rule. In this type of extreme situation, the Exchange believes participants should be given more time to seek relief so that there is a greater opportunity to mitigate very large losses and reduce the corresponding large wind-falls. However, to maintain the appropriate balance, the Exchange believes participants should only be given more time when the execution price is much further away from the Theoretical Price than is required for Obvious Errors, and that the adjustment "penalty" should be much greater, so that relief is only provided in extreme circumstances.<sup>5</sup>

Accordingly, the Exchange proposes to amend the Obvious Error Rule to address "Catastrophic Errors." Under the proposed rule, participants will have until 8:30 a.m. Eastern Time on the day following the trade to notify the MOC of a potential Catastrophic Error. For trades that take place in an expiring series on expiration Friday, participants must notify the MOC of a potential Catastrophic Error by 5 p.m. Eastern Time that same day. Once a participant has notified the MOC of a Catastrophic Error within the required time period,

<sup>5</sup> The Exchange does not believe the type of extreme situation that is covered by the proposed rule would occur in the normal course of trading. Rather, this type of situation could potentially occur as a result of, for example, an error in a participant's quotation system that causes a market maker to severely misprice an option.

<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).