

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53245; File No. SR-BSE-2006-02)

February 7, 2006

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto to Amend and Clarify Its Rules Governing the Hours of Trading on the Boston Options Exchange

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 January 11, 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 and II below, which Items have been prepared by the BSE. On February 2, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the amended proposal on an accelerated basis.

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

The BSE proposes to amend and clarify its rules governing its hours of trading on the Boston Options Exchange (“BOX”). The Exchange proposes that these changes be implemented on February 13, 2006.⁴ The text of the proposed rule change, as amended,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange requested that the implementation date for the new closing time be changed from February 1, 2006, as was originally proposed, to February 13, 2006.

⁴ Id.

is available on the BSE's Web site (<http://www.bostonstock.com>), at the principal office of the BSE, 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 change, as amended, and discussed any comments it received on the proposed rule change, as amended. 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

According to the Exchange, the purpose of the proposed rule change, as amended, is to amend and clarify its rules with respect to the hours of trading on BOX. Currently, Chapter V, Section 3(a) of BOX's rules states that the Boston Options Exchange Regulation LLC ("BOXR") Board shall determine the days BOX shall be open for options business and the hours of such days during which options transactions may be made on BOX. When BOX launched trading in February of 2004, the BOXR Board set the closing time for the hours of business for options trading on individual stocks at 4:02 p.m. EST to conform to the business hours of the other five options exchanges.⁵ It is the BSE's understanding that all of the options exchanges collectively have determined to

⁵ According to the Exchange, the BOXR Board has also set the hours of business for options on Fund Shares, as defined in Chapter 4, Section 3(i) of BOX Rules, to be 4:15 p.m. EST.

change their rules to adjust the closing time in options on individual stocks from 4:02 p.m. EST to 4:00 p.m. EST on February 13, 2006.⁶ The BOXR Board intends to pass a resolution to change the hours of business for options trading on individual stocks to be 4:00 p.m. EST, effective on February 13, 2006.⁷

According to the Exchange, the options exchanges propose to change their respective hours of business because: (1) the initial rationale to continue trading options for some limited period of time after the underlying market close period (which allowed options traders to respond to late reports of closing prices over the consolidated tape) is no longer necessary due to improvements in the processing and reporting of transactions, and (2) it is difficult for the market to price options when the underlying security is not trading.

Chapter V, Section 3(b) of BOX's rules further states that transactions may be effected in an options class on BOX until two (2) minutes after the primary market on which the underlying security trades closes for trading. The Exchange proposes to eliminate this additional language for clarification purposes. By eliminating this reference that transactions may be effected on BOX until two minutes after the

⁶ The Exchange represents that it is not currently trading options on narrow-based indexes, and thus is not proposing changes at this time related to the hours of trading for narrow-based index options. However, if the Exchange were to list options on narrow-based indexes, the Exchange will at that time make necessary changes regarding the closing time for options on narrow-based indexes. Telephone conversation between Bill Meehan, Assistant Vice President, Regulation & Compliance, BOX Regulation, and Cyndi N. Rodriguez, Special Counsel, Division of Market Regulation ("Division"), Commission, on February 6, 2006.

⁷ See Amendment No. 1, supra note 3.

underlying primary market, the Exchange believes it will eliminate any confusion as to BOX's hours of business for options on individual stocks.

The Exchange notes that if it were to unilaterally modify its closing time, the existence of dissimilar closing times applicable to the different options exchanges would likely lead to confusion for options investors and broker-dealers.

The Exchange also proposes to update its rules with respect to the closing time of Fund Shares on BOX. The BOXR Board has set the closing time of Fund Shares at 4:15 p.m. EST, and Fund Shares will continue to close at that time. Currently, Chapter V, Section 3(b) of BOX Rules states that "Notwithstanding the foregoing, transactions may be effected in options contracts overlying the Nasdaq 100 Index Trading Stock® on BOX until 4:15 p.m."⁸ However, this sentence does not list all of the Fund Shares traded on BOX. This proposal would clarify that all Fund Shares may trade on BOX until 4:15 p.m. EST by using the defined term of Fund Shares, rather than listing specific options traded until 4:15 p.m. EST.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁰ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to

⁸ Telephone conversation between Bill Meehan, Assistant Vice President, Regulation & Compliance, BOX Regulation, and Cyndi N. Rodriguez, Special Counsel, Division, Commission, on February 6, 2006 (correcting the reference to language contained in Chapter V, Section 3(b) of BOX Rules).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

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 BSE does not believe that the proposed rule change, as amended, will impose any burden on competition that is 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

No written comments were solicited or received with respect to the proposed rule change, as amended.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form at <http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BSE-2006-02 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-2006-02. 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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2006-02 and should be submitted on or before [insert date 21 days after the date of publication in the Federal Register].

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

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹¹ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹² which requires, among other things, that the rules of a national securities exchange be designed to prevent

¹¹ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b)(5).

fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The Commission notes that the Exchange believes that the need to continue trading options for some period of time after the close of trading in the underlying securities markets is no longer necessary because improvements in the processing and reporting of transactions have obviated the need to respond to late reports of closing prices over the consolidated tape in order to bring options quotes in line with the closing price of the underlying security. Because the two minute delay between the close of normal trading in equity options and the corresponding underlying equity markets is no longer necessary, the Commission believes that eliminating the delay is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets. Therefore, the Commission finds that it is consistent with the Act for the Exchange to amend and clarify its rules governing the hours of trading of options on individual stocks on BOX from 4:02 p.m. (EST) to 4:00 p.m. (EST).

The Commission finds good cause for approving this proposed rule change, as amended, before the thirtieth day after publication of notice thereof in the Federal Register. The Commission notes that all of the options exchanges have filed substantially similar proposals and seek to implement these industry-wide changes simultaneously on February 13, 2006.¹³ For example, on December 20, 2005, the Commission published for

¹³ See note 16, infra.

comment in the Federal Register a similar proposed rule change submitted by the Chicago Board Options Exchange, Incorporated (“CBOE”).¹⁴ The Commission received no comments on the CBOE’s proposed rule change. The Commission believes that the BSE’s proposed rule change, as amended, raises no new issues or novel regulatory questions. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁵ for approving the proposed rule change, as amended, prior to the thirtieth day after publication in the Federal Register. In addition, because the existence of dissimilar closing times among the options exchanges could lead to confusion for options investors and broker-dealers, the Commission finds good cause to accelerate approval of the proposed rule change, as amended, to enable the six options exchanges to simultaneously amend their hours of trading on an industry-wide basis in a uniform manner.¹⁶

¹⁴ See Securities Exchange Act Release No. 52949 (December 13, 2005), 70 FR 75513 (December 20, 2005) (SR-CBOE-2005-104). See also Securities Exchange Act Release No. 53055 (January 5, 2006), 71 FR 2279 (January 13, 2006) (SR-ISE-2005-58).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ The Commission notes that it is simultaneously approving similar proposals from the other options exchanges. See Securities Exchange Act Release Nos. 53244 (SR-Amex-2006-003); 53246 (SR-CBOE-2005-104); 53248 (SR-ISE-2005-58); 53249 (SR-PCX-2005-138); and 53247 (SR-Phlx-2006-01) (February 7, 2006).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change and Amendment No. 1 thereto (SR-BSE-2006-02) be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Nancy M. Morris
Secretary

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).