

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55419; File No. SR-BSE-2007-10)

March 7, 2007

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 1, 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 the BSE. The BSE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the BSE under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) 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 BSE proposes to amend the Minimum Activity Charge (“MAC”) contained in the Fee Schedule for the Boston Options Exchange (“BOX”). The Exchange proposes to add an alternative calculation of the minimum activity charge called “MiniMAC.” The text of the proposed rule change is available at the BSE, the Commission’s Public Reference Room, and <http://www.bostonstock.com/legal/filings/2007-10.pdf>.

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<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)(ii).

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

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 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. The 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 Exchange proposes to amend the MAC which is contained in the Fee Schedule for BOX. Currently, in order to determine if a Market Maker has reached its MAC, volume in their assigned (and unassigned) classes is charged a flat fee, which is then compared to the MAC. The Exchange now proposes to establish an alternative calculation of the minimum activity charge called "MiniMAC."

The MiniMAC is the Minimum Activity Charge ("MAC") discounted at fifty percent and is payable if a per contract traded fee of \$0.40 (or \$0.30 per contract traded in the case of classes traded that are included in the Penny Pilot Program), when multiplied by the Market Maker's actual trade executions for the month, does not result in a total trading fee payable to BOX at least equal to the monthly total of 50% of the MAC (MiniMAC). If the MiniMAC is reached, the \$0.40 per contract traded rate (or \$0.30 per contract traded rate in the case of classes traded that are included in the Penny Pilot Program), will still be applied to the exceeding volume until MAC is reached. If the MAC is reached, the \$0.20 per contract rate (or \$0.15 per contract rate in

the case of classes traded that are included in the Penny Pilot Program) will be applied to any exceeding volume.

The following examples illustrate BOX billing calculations assuming one category A assigned class with a MAC of \$10,000 and three different levels of volume executed:

<b>Example 1</b> <b>Low</b> <b>Volume</b>	MAC:	\$10,000	MiniMAC:	\$5,000	
	Volume:	5,000	Volume:	5,000	
	Volume at \$0.20:	\$1,000	Volume at \$0.40:	\$2,000 (5,000 contracts)	
			Volume at \$0.20:	\$0 (0 contracts)	
			Total	\$2,000	
	Subtotal A:	\$10,000	Subtotal B:	\$5,000	Final Charge: \$5,000

<b>Example 2</b> <b>Mid</b> <b>Volume</b>	MAC:	\$10,000	MiniMAC:	\$5,000	
	Volume:	20,000	Volume:	20,000	
	Volume at \$0.20:	\$4,000	Volume at \$0.40:	\$8,000 (20,000 contracts)	
			Volume at \$0.20:	\$0 (0 contracts)	
			Total	\$8,000	
	Subtotal A:	\$10,000	Subtotal B:	\$8,000	Final Charge: \$8,000

<b>Example 3</b> <b>High</b> <b>Volume</b>	MAC:	\$10,000	MiniMAC:	\$5,000	
	Volume:	60,000	Volume:	60,000	
	Volume at \$0.20:	\$12,000	Volume at \$0.40:	\$10,000 (25,000 contracts)	
			Volume at \$0.20:	\$7,000 (35,000 contracts)	
			Total	\$17,000	
	Subtotal A:	\$12,000	Subtotal B:	\$17,000	Final Charge: \$12,000

BOX will apply whichever is lower, the MAC or the MiniMAC. The purpose of this proposed change is to provide for an alternative so that BOX is able to lower the fees for BOX Participants. The Exchange believes that the proposed change is necessary to equitably allocate the minimum activity charge fees to all of its Participants.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>5</sup> in general, and Section 6(b)(4) of the Act,<sup>6</sup> in particular, which requires that an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

### 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 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

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of such 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.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 19b-4(f)(2).

#### 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-2007-10 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 Number SR-BSE-2007-10. 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 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-2007-10 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).