

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55529; File No. SR-BSE-2007-13)

March 26, 2007

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Existing BeX Fee Schedule

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 March 5, 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 Exchange. The BSE has designated this proposal as one changing a due, fee, or other charge 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 Boston Equities Exchange (“BeX”) fee schedule to include a smart order routing fee to be charged to BSE Members where a third-party broker-dealer serves as the “give-up” on an away Trading Center when the Member on whose behalf the order is being routed is not also a member of the away Trading Center. The text of the proposed rule change is available at [www.bostonstock.com](http://www.bostonstock.com), at the BSE, and at the Commission’s Public Reference Room.

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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 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 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

On November 20, 2006, the BSE filed File No. SR-BSE-2006-44, a rule filing that amended the existing BSE fee schedule and established a fee schedule for the BeX, a facility of the Exchange. File No. SR-BSE-2006-44 resulted in, among other things, the deletion of all Transaction Fees, Electronic File Access and Processing Fees, and Floor Operation Fees from the BSE fee schedule. The Transaction Fees and Electronic File Access and Processing Fees that were deleted from the BSE fee schedule were transferred to the BeX fee schedule. In addition to the transfer of existing fees from the BSE fee schedule to the BeX fee schedule, certain new fees were added to the BeX fee schedule. For example, BeX now charges a smart order routing fee of \$0.0010 per 100 shares. The purpose of the instant proposed rule change is to update the BeX fee schedule to reflect a new smart order routing fee that will be charged to Members when the Member on whose behalf an order is routed is not also a member or subscriber of the away Trading Center and, as a result, must utilize the "give-up" services provided through the Exchange.

As described in Chapter XXXVIII, Section 3 of the Exchange's Rules, the Exchange will route orders to other Trading Center under certain circumstances ("Routing Services"). The Exchange provides its Routing Services pursuant to the terms of three separate agreements: (1) an agreement between the Exchange and each Member on whose behalf orders will be routed ("Member-Exchange Agreement"); (2) an agreement between the Exchange and each third-party broker-dealer that will serve as a "give-up" on an away Trading Center when the Member on whose behalf an order is routed is not also a member or subscriber of the away Trading Center ("Give-Up Agreement"); and (3) an agreement between the Exchange and a third-party service provider ("Technology Provider") pursuant to which the Exchange licenses the routing technology used by the Exchange for its Routing Services ("Exchange-Technology Provider Agreement").

The new smart order routing fee being added to the BeX fee schedule relates to the second scenario set forth above, where a third-party broker-dealer serves as the "give-up" on an away Trading Center when the Member on whose behalf the order is being routed is not also a member of the away Trading Center. The new fee is called the "Smart order routing using BeX provided give-up" fee and the charge is \$0.0050 per 100 shares.<sup>5</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>7</sup>

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<sup>5</sup> The Exchange represents that the new fee of \$0.0050 per 100 shares will be charged in lieu of, and not in addition to, the currently existing "Smart order routing" fee of \$0.0010 per 100 shares for those orders using a BeX-provided give-up. Telephone conversation between Brian Donnelly, Assistant Vice President, Regulation and Compliance, BSE, and David Michehl, Special Counsel, Division of Market Regulation, Commission, on March 19, 2007.

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

in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using Exchange 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 proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and Rule 19b-4(f)(2) thereunder,<sup>9</sup> because it establishes or changes a due, fee or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission.

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.

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<sup>7</sup> 15 U.S.C. 78f(b)(4).

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

<sup>9</sup> 17 CFR 240.19b-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 Number SR-BSE-2007-13 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-2007-13. 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-2007-13 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon  
Deputy Secretary

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