

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58082; File No. SR-BSE-2008-35)

July 2, 2008

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Current Pilot Program for Linkage Fees on the Boston Options Exchange Facility

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 June 23, 2008, 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange is proposing to amend the Fee Schedule of the Boston Options Exchange (“BOX”), the options trading facility of the BSE, to extend until July 31, 2009, the current pilot program applicable to the options intermarket linkage (“Linkage”) fees. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and [www.bse.com](http://www.bse.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 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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

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 Exchange’s fees for Principal (“P”) and Principal Acting as Agent (“P/A”) Orders<sup>3</sup> executed on BOX currently operate under a pilot program scheduled to expire on July 31, 2008.<sup>4</sup> The Exchange proposes to extend the current pilot program for such Linkage fees through July 31, 2009. The Exchange is not proposing any changes other than changing the date. Because all Linkage orders received by BOX are for the account of a market maker on another exchange, Linkage fees that are applicable to P and P/A orders are the same as fees applicable to market makers on other exchanges that submit orders to BOX outside of Linkage. The side of a BOX trade opposite an inbound P or P/A order would be billed normally as any other BOX trade. Consistent with the Linkage Plan, no fees will be charged to a party sending a Satisfaction Order

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<sup>3</sup> Under Section 1(j) of Chapter XII of the BOX Rules, a “Linkage Order” means an Immediate or Cancel order routed through Linkage. There are three types of Linkage Orders:

- (i) “P/A Order,” which is an order for the principal account of a Market Maker (or equivalent entity on another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the Market Maker is acting as agent;
- (ii) “P Order,” which is an order for the principal account of a market maker (or equivalent entity on another Participant exchange) and is not a P/A Order; and
- (iii) “Satisfaction Order,” which is an order sent through the Linkage to notify a Participant Exchange of a Trade-Through and to seek satisfaction of the liability arising from that Trade Through.

<sup>4</sup> See Securities Exchange Act Release No. 56167 (July 30, 2007), 72 FR 43302 (August 3, 2007) (SR-BSE-2007-33). See also Securities Exchange Act Release No. 54225 (July 27, 2006), 71 FR 44056 (August 3, 2006) (SR-BSE 2006-26); Securities Exchange Act Release No. 52147 (July 28, 2005) 70 FR 44706 (August 3, 2005) (SR-BSE 2005-28).

to BOX. Rather, a fee will be charged to the BOX Participant that was responsible for the trade-through that caused the Satisfaction Order to be sent.

The Exchange believes that extending the Linkage fee pilot program until July 31, 2009 will give the Exchange and the Commission additional time and opportunity to evaluate the appropriateness of Linkage fees.

## 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, 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 proposed rule change will preserve the status quo of the pilot program without interruption as the Commission further reviews the area of Linkage fees.

### 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> This proposed rule change does not

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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).

significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.<sup>9</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Exchange 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 No. SR-BSE-2008-35 on the subject line.

##### Paper comments:

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<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> The Exchange has satisfied this pre-filing requirement.

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BSE-2008-35. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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-2008-35 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 Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Acting Secretary

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