

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 34-51612; File No. SR-BSE-2004-24)**

**April 26, 2005**

**Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Remote Floor Brokers**

Introduction

On June 28, 2004, the Boston Stock Exchange, Inc. (“BSE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), 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> a proposed rule change to permit Remote Floor Brokers to conduct their business from remote locations off of the Exchange floor. The proposed rule change was published in the Federal Register on November 30, 2004.<sup>3</sup> No comments were received on the proposed rule change. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,<sup>4</sup> particularly Section 6(b)(5) of the Act which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, to remove impediments to perfect the mechanism of a free and open market and a national market system and, in general, to protect

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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> See Securities Exchange Act Release No. 50715 (November 22, 2004), 69 FR 69650.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact of efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

investors and the public interest.<sup>5</sup> The Commission believes that the proposed rule change could promote efficiency at the BSE by reducing the costs associated with transactions on the Exchange by allowing brokers to choose the most efficient and cost-effective way of conducting their business.

Under the proposed rule change, Remote Floor Brokers will be governed by the same general rules that govern Remote Specialists.<sup>6</sup> Specifically, Remote Floor Brokers will be required to meet certain minimum requirements including, but not limited to, their background, experience, staffing, training procedures, adequacy of the floor broker's confidentiality policies, its contingency plans for communication or technology failures, the adequacy of the floor broker's off-site facility, performance standards and minimum capital requirements. Further, Remote Floor Brokers must comply with the trading rules that apply to trading on the BSE floor, including but not limited to: Chapter II, Section 2, Recording of Sales; Chapter III, Section 6, Floor Broker's Responsibility; Chapter XIV, Independent Floor Brokers; Chapter XVII, Members Dealing for Own Account; and, Chapter XXXIII, Section 2, Order Entry.<sup>7</sup> All BSE brokered orders, including those which would be handled by a BSE Remote Broker, must be entered into the BEACON trading system before being executed by a BSE specialist.<sup>8</sup> Further, the BSE will maintain communication with its proposed Remote Brokers via Stentofon, and dedicated telephone

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

<sup>6</sup> See BSE Rules, Chapter XXXIII, BEACON Remote; see also Securities Exchange Act Release No. 43127 (August 8, 2000), 65 FR 49617 (August 14, 2000) (Commission Order approving Remote Specialists at BSE) ("Remote Specialist Order").

<sup>7</sup> Letter from John Boese, Vice President, Chief Regulatory Officer, Exchange, to Kelly M. Riley, Assistant Director, Division of Market Regulation, Commission, dated April 11, 2005.

lines so as to ensure the fulfillment of its regulatory oversight of remote brokerage units.<sup>9</sup> Moreover, as it does with its current Remote Specialist firms, the Exchange will conduct both scheduled and unscheduled compliance inspections of remote brokerage firms. Any regulatory requirements including trading halts, trading practices, policies, procedures or rules requiring floor official involvement will be coordinated by Exchange personnel with the remote brokers through the dedicated telephone line.<sup>10</sup>

The proposed rule change should not alter the duties and obligations of a BSE Floor Broker in any way, other than the ability of the Floor Brokers to conduct their business from locations other than the BSE floor. In fact, the Commission notes that the Exchange has represented that the instant proposed rule change should have little, if any, impact on the way that Exchange Floor Brokers operate since the trading activity on the BSE floor is conducted exclusively in an electronic manner.

In the order approving Remote Specialists, the Commission noted the ability the BSE to conduct its regulatory responsibilities over remote members, such as conducting market surveillance, enforcing members' compliance with BSE rules and the Act, and coordinating regulatory actions both on and off the floor. The ability of BSE to conduct these regulatory activities over remote floor brokers is critical. While the Commission is satisfied that the proposed rule provides an adequate framework to address these issues,<sup>11</sup> BSE must establish and

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<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> See generally Remote Specialist Order, supra note 6, for a complete discussion of this framework.

implement a rigorous surveillance program to ensure BSE remote members comply with the federal securities laws and BSE rules and to ensure BSE's ability to enforce such compliance.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-BSE-2004-24) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>12</sup> See 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).