

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55903; File No. SR-BSE-2007-24)

June 13, 2007

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to allow NMS Cross Order type to be sent to the Boston Equities Exchange

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 7, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as “non-controversial” under Section 19(b)(3)(A)(iii)<sup>3</sup> of the Act and Rule 19b-4(f)(6) 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 amending the BSE Rules to allow the NMS Cross Order type to be sent to the Boston Equities Exchange (“BeX”). The text of the proposed rule change is available at BSE, the Commission’s Public Reference Room, and on the Exchange’s Web site (<http://www.bostonstock.com>).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

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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)(iii).

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

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 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 purpose of the proposed rule change is to allow NMS Cross Orders to be sent to BeX. An NMS Cross Order is an order that contains an instruction to execute a cross transaction at a specific price and an instruction to execute all displayed and undisplayed orders or undisplayed portions of orders already in BeX at their limit prices (up to a specified number of shares) against a specified party to allow the cross transaction to occur and/or to route outbound orders to other Trading Centers to the extent necessary to prevent an improper trade-through.

An NMS Cross may represent interest of one or more Members of the Exchange but, to the extent that it represents interest of the Member sending the order to BeX, the Member shall not be eligible to satisfy existing bids or offers in BeX at a price that is better than the cross price (when a Member's customer is on the same side of the order as the Member) and could only satisfy bid or offers in other markets at a price that is better than the cross price if the cross is for at least 10,000 shares or has a value of at least \$200,000 (a "block size order") or is for the account of an institutional customer (as that term is defined in Interpretation and Policy .03 of Chapter XXXVII, Section 2(Q))<sup>5</sup> and the Member's customer has specifically agreed to that

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<sup>5</sup> Proposed Interpretation and Policy .03 of Chapter XXXVII, Section 2(Q) defines the term "institutional customer" as "the account of: (a) a bank, savings and loan association, insurance company or registered investment company; (b) an investment advisor

outcome. Members must handle their customer limit orders with due care so as to comply with Chapter II, Section 11 of the BSE Rules prohibiting a Member from trading ahead of customer orders.

The NMS Cross Order provides a Member with an efficient mechanism to clear out orders in BeX that would otherwise have time or price priority (and/or displayed bids or offers in other Trading Centers that would otherwise have price priority) and then to effect a cross transaction at a particular price. If an NMS Cross Order is sent with a share size that is too small to satisfy orders in BeX or bids or offers in other markets, as applicable, the order will be automatically cancelled. The share size necessary to satisfy orders in BeX or bids and offers in other markets is separate and distinct from the cross quantity and the cross quantity may not be diminished in order to supplement the share size intended to satisfy orders in BeX or bids and offers in other markets. Once the satisfying execution has occurred (or, for orders sent to other Trading Centers, those orders have been sent), the cross will be executed at a price that is better than the best bid or offer in BeX.

## 2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>6</sup> that an Exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove

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registered either with the Commission under Section 203 of the Investment Advisers Act of 1940 or with a state securities commission (or any agency office performing like functions); or (c) any other entity (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least \$50 million.”

<sup>6</sup> 15 U.S.C. 78f(b)(5).

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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would 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 written comments on the proposed rule change.

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

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

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 the furtherance of the purposes of the Act.

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

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

#### 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-2007-24 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-2007-24. 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 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-2007-24 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>9</sup>

Florence E. Harmon  
Deputy Secretary

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