

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56253; File No. SR-BSE-2007-40)

August 15, 2007

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Extend and Expand the Pilot Program to Quote Certain Options in Pennies

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 10, 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 prepared by the BSE. 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 Exchange proposes to amend the Boston Options Exchange (“BOX”) Rules to reflect BOX’s continued participation in the Penny Pilot Program, which would follow a two-phased extension schedule, first extending through March 27, 2008 and then extending through March 27, 2009. During this extension, the Exchange also proposes a corresponding expansion of the Penny Pilot Program, with each of the two expansion phases commencing when its corresponding extension phase becomes operative. The text of the proposed rule change is available on the BSE’s Web site at (<http://www.bostonstock.com>), at the offices of the Exchange, and at the Commission’s Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The purpose of this proposed rule change is to amend the BOX Rules to reflect BOX's continued participation in the Penny Pilot Program, namely its participation in a two-phased extension and expansion of the program. The Exchange proposes to amend Section 33, ("Penny Pilot Program") to Chapter V ("Doing Business on BOX") of the BOX Rules.

All six options exchanges, including BOX, currently participate in the thirteen class³ Penny Pilot Program set to expire on September 27, 2007.⁴ The Exchange now proposes to both extend and expand the Penny Pilot Program; extending through March 27, 2008 and expanding with an additional twenty-two options classes during that six-month extension period. The additional twenty-two options classes would be as follows: SPDRs (SPY); Apple, Inc. (AAPL);

³ The thirteen option classes currently in the Pilot are: Ishares Russell 2000 (IWM); NASDAQ-100 Index Tracking Stock (QQQQ); SemiConductor Holders Trust (SMH); General Electric Company (GE); Advanced Micro Devices, Inc. (AMD), Microsoft Corporation (MSFT); Intel Corporation (INTC); Caterpillar, Inc. (CAT); Whole Foods Market, Inc. (WFMI); Texas Instruments, Inc. (TXN); Flextronics International Ltd. (FLEX); Sun Microsystems, Inc. (SUNW); and Agilent Technologies, Inc. (A).

⁴ The Pilot Program is currently set to expire on September 27, 2007. See Securities Exchange Act Release No. 56149 (July 26, 2007), 72 FR 42450 (August 2, 2007) (SR-BSE-2007-38). See also Securities Exchange Act Release No. 55155 (January 23, 2007), 72 FR 4741 (February 1, 2007) (SR-BSE-2006-49) ("Original Penny Pilot Program Approval Order").

Altria Group Inc. (MO); Dendreon Corp. (DNDN); Amgen Inc. (AMGN); Yahoo! Inc. (YHOO); QUALCOMM Inc. (QCOM); General Motors Corporation (GM); Energy Select Sector (XLE); DIAMONDS Trust, Series 1 (DIA); Oil Services HOLDRs (OIH); NYSE Euronext, Inc. (NYX); Cisco Systems, Inc. (CSCO); Financial Select Sector SPDR (XLF); AT&T Inc. (T); Citigroup Inc. (C); Amazon.com Inc. (AMZN); Motorola Inc. (MOT); Research in Motion Ltd. (RIMM); Freeport-McMoRan Copper & Gold Inc. (FCX); ConocoPhillips (COP); and Bristol-Myers Squibb Co. (BMY). These options classes represent the most actively traded, multiply-listed options classes that would, together with the current thirteen Penny Pilot classes, account for approximately 35% of total trading volume, based on OCC year-to-date trading volume data (through July 16, 2007). Excluded in this aggregate measurement are Google, NDX, and RUT because of their high premiums

Furthermore, the Exchange proposes a second extension and expansion of the Penny Pilot Program. This second proposal would extend the Penny Pilot Program for an additional year, from March 28, 2008 through March 27, 2009. During this second extension, the number of options classes trading in pennies would again increase. The Exchange proposes to add the most actively traded, multiply listed options classes up to the top 50 by volume.⁵ This would bring the total number of options classes being quoted in pennies to approximately sixty-three (the original 13 pilot options classes, the 22 from the first expansion, plus the 28 additional options classes from the second expansion) for the second expansion, from March 28, 2008 to March 27, 2009.

The minimum price variation for all classes included in the Penny Pilot Program, except for the QQQs, would continue to be \$0.01 for all quotations in option series that are quoted at

⁵ The Exchange intends to file a 19(b)(3)(A) rule filing to identify the options classes to be included in the second expansion.

less than \$3 per contract and \$0.05 for all quotations in option series that are quoted at \$3 per contract or greater. The QQQs would continue to be quoted in \$0.01 increments for all options series.

During the extended and expanded pilot program, the BOX would deliver four reports to the Commission. Each report would analyze the impact of penny pricing on market quality and options system capacity. The first report would analyze the penny pilot results from May 1, 2007 through September 27, 2007. The second would analyze the results from September 28, 2007 through January 31, 2008. The third would analyze the results from February 1, 2008 through July 31, 2008. And the fourth and final report would examine the results from August 1, 2008 through January 31, 2009. These reports would be provided to the Commission within 30 days of the conclusion of the reporting period.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that the proposed rule change is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to facilitating transactions in securities, to remove 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. Based on Exchange's experience with the 13 pilot classes, the Exchange believes it is appropriate to extend and expand the pilot in the manner described.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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

The Exchange does not believe that the proposed rule change will result in 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

Written comments on the proposed rule change were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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. The Commission also requests and encourages interested persons to submit comments on the following specific questions:

- Whether there are circumstances under which options classes included in the Penny Pilot should be removed from the Pilot?
- If so, what factors should be considered in making the determination to remove an option class from the Penny Pilot?

- Should an objective standard be used? For instance, should an option class come out of the Penny Pilot if its trading volume drops below a threshold amount? If so, what should that threshold be? Or, should an option class come out of the Penny Pilot if it is no longer among the most actively-traded options? If so, what should be considered the most-actively traded options? What statistics or analysis should be used to support a determination to remove an options class?
- Should a more subjective analysis be allowed? If so, what factors should be taken into account?
- What concerns might arise by removing an option from the Penny Pilot? How could such concerns be ameliorated?
- How frequently should the analysis be undertaken (e.g., annually, bi-annually, quarterly), or should the evaluation be an automated process?
- If a determination is made that an option should be removed from the Penny Pilot, how much notice should be given to market participants that the quoting increment will change?

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. Please include File Number SR-BSE-2007-40 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-2007-40. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. 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-2007-40 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.⁸

⁸ 17 CFR 200.30-3(a)(12).

Florence E. Harmon
Deputy Secretary