

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57302; File No. SR-BSE-2008-08)

February 11, 2008

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Expand, and Make Permanent, the \$1 Strike Program

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 January 28, 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 and II below, which Items have been substantially prepared by the Exchange. BSE filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ 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 Exchange proposes to amend the rules of the Boston Options Exchange (“BOX”) to expand the \$1 Strike Pilot Program (“Program”) and request permanent approval of the Program. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and www.bostonoptions.com.

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.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 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 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 the proposed rule change is to expand the Program and request permanent approval of the Program.⁵ Chapter IV, Section 6 of the BOX rules establishes guidelines regarding the addition of options series for trading on BOX. The Program currently allows the Exchange to select a total of 5 individual stocks on which option series may be listed at \$1 strike price intervals. To be eligible for selection into the Program, the underlying stock must close below \$20 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at \$1 intervals from \$3 to \$20, but no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day. The Exchange also may list \$1 strikes on any other option class designated by other securities exchanges that employ a similar \$1 strikes program under their respective rules. The Exchange may not list long-term option series ("LEAPS") at \$1 strike price intervals for any

⁵ BSE implemented the Program in February 2004 and extended it four times through June 5, 2008. See Securities Exchange Act Release Nos. 49292 (February 20, 2004), 69 FR 8993 (February 26, 2004) (SR-BSE-2004-01) (adopting the Program); 49806 (June 4, 2004), 69 FR 32640 (June 10, 2004) (SR-BSE-2004-22) (extending the Program until June 5, 2005); 51778 (June 2, 2005), 70 FR 33562 (June 8, 2005) (SR-BSE-2005-18) (extending the Program until June 5, 2006); 53855 (May 24, 2006), 71 FR 30973 (May 31, 2006) (SR-BSE-2006-19) (extending the Program until June 5, 2007); and 55684 (April 30, 2007), 72 FR 26188 (May 8, 2007) (SR-BSE-2007-17) (extending the Program until June 5, 2008).

class selected for the Program. The Exchange also is restricted from listing any series that would result in strike prices being \$0.50 apart.

The Exchange proposes to expand the Program to allow it to select a total of 10 individual stocks on which option series may be listed at \$1 strike price intervals. Additionally, the Exchange proposes to expand the price range on which it may list \$1 strikes, presently from \$3 to \$20, to now include stocks priced from \$3 to \$50. The existing restrictions on listing \$1 strikes will continue, e.g., no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, and the Exchange is restricted from listing any series that would result in strike prices being \$0.50 apart.

As stated in the Commission notice initially establishing the Program and in the subsequent extensions of the Program,⁶ the Exchange believes that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower priced stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Exchange states that Participants representing customers have requested that BSE seek to expand the Program, both in terms of the number of classes which can be selected and the range in which \$1 strikes may be listed.

With regard to the impact on systems capacities, the Exchange's analysis of the Program shows that the impact on BSE's, OPRA's, and market data vendors' respective automated systems has been minimal. In a previously filed proposed rule change,⁷ the Exchange analyzed the trading volume for all classes selected by BOX for the Program as a percentage of overall trading

⁶ See id.

⁷ See Securities Exchange Act Release No. 55684 (April 30, 2007), 72 FR 26188 (May 8, 2007) (SR-BSE-2007-17).

volume for all classes on BOX during a specific number of months. The Exchange concluded that the classes selected for the Program represented on average 2.6% of all trading volume on BOX. The Exchange represents that it has sufficient capacity to handle an expansion of the Program, as proposed.

The Exchange believes that the Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, BSE requests that the Program be approved on a permanent basis.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁸ in general, and Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to promote just and equitable principles of trade and 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 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 states that it has neither solicited nor received written comments on the proposed rule change.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this 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 Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can immediately implement these listing rules, as proposed, that are similar to those implemented by other options exchanges¹² and do not raise any novel issues. In addition, the Exchange believes that the proposed rule change is necessary to eliminate any confusion among members of multiple exchanges regarding the Program and to allow the Exchange to remain competitive.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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. The Exchange has fulfilled this requirement.

¹² See Securities Exchange Act Release Nos. 57169 (January 18, 2008), 73 FR 4654 (January 25, 2008) (SR-ISE-2007-110); 57130 (January 10, 2008), 73 FR 3302 (January 17, 2008) (SR-NYSEArca-2008-04); 57110 (January 8, 2008), 73 FR 2292 (January 14, 2008) (SR-Amex-2007-141); 57111 (January 8, 2008), 73 FR 2297 (January 14, 2008) (SR-Phlx-2008-01); and 57049 (December 27, 2007), 73 FR 528 (January 3, 2008) (SR-CBOE-2007-125).

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change will provide the Exchange's members and customers with added flexibility in the trading of equity options and promote, without undue delay, additional competition in the market for such options.¹³ For these reasons, the Commission designates the proposed rule change as operative upon filing. The Commission expects the Exchange to continue to monitor for options with little or no open interest and trading activity and to act promptly to delist such options. In addition, the Commission expects that BSE will continue to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

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.

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

¹³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BSE-2008-08 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-2008-08. 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 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2008-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).