

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57858; File No. SR-BSE-2008-30)

May 23, 2008

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Obvious Errors on the Boston Options Exchange

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 May 22, 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. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act 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 Section 20 (Obvious Errors) of Chapter V of the Rules of the Boston Options Exchange Group, LLC (“BOX”). The proposed rule change would redefine theoretical price (“Theoretical Price”) for the purposes of determining whether an execution price constitutes an obvious error (“Obvious Error”). The text of the proposed rule

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).

change is available at the principal office of the Exchange, the Commission's Public Reference Room, and www.bostonstock.com/regulatory/effective.aspx.

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 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. 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 Exchange believes that the Obvious Error rules and procedures on BOX provide objective criteria by which certain transactions may be analyzed if believed to have been executed at erroneously high or low prices. Section 20 of Chapter V of the BOX Rules currently defines the Theoretical Price of an options series, if the series is traded on at least one other options exchange, as "the last bid price with respect to an erroneous sell transaction, and last offer price with respect to an erroneous buy transaction, just prior to the trade disseminated by the competing options exchange that has the most liquidity in that option; or if there are no quotes for comparison purposes, as determined by the MRC."

The proposed rule change would re-define Theoretical Price to mean, with respect to options series traded on at least one other options exchange, either the last National Best Bid price (with respect to an erroneous sell transaction) or the last National Best Offer price (with respect to an erroneous buy transaction), just prior to the trade in question. This would provide the Market Regulation Center ("MRC") with a clearly defined measure of the price on which to

base their determination as to whether or not a particular transaction resulted from an erroneous price and thus was an obvious error.⁵ If approved, this proposal would continue to permit the MRC to establish the Theoretical Price when there are no quotes available for comparison purposes.

As the proposed rule change would eliminate any comparison to the “competing options exchange that has the most liquidity in that option,” the Exchange proposes to remove Supplemental Material .03 to Section 20 of Chapter V of the BOX Rules and modify the formatting of certain portions of the Supplemental Material for the purposes of conforming such formatting to that of the remainder of the BOX Rules. The Exchange also proposes to make a minor change to the rule text to correct an existing typographical error.

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 it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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. Specifically, the proposed rule change would establish an objective definition of Theoretical Price when determining whether a particular transaction was or was not an Obvious Error and

⁵ The Exchange notes that the Philadelphia Stock Exchange (“Phlx”), see Phlx Rule 1092(b), uses the NBBO to determine the theoretical price of an option.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

assure that any price adjustments made to Obvious Errors would not violate the terms of the Options Intermarket Linkage Plan.⁸

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 Act⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing.¹¹ 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 has requested that the Commission waive the

⁸ See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) (File No. 4-429) (order approving the Options Intermarket Linkage Plan).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii). The Exchange has satisfied the five-day pre-filing requirement of Rule 19b-4(f)(6)(iii).

30-day operative delay and designate the proposed rule change operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Given that the proposed rule change is substantially the same as that of the Phlx, previously approved by the Commission,¹² the proposal does not appear to present any novel regulatory issues. In addition, waiving the 30-day operative delay ensures that the Exchange's obvious error rule conforms to the Options Intermarket Linkage Plan without delay. Therefore, the Commission designates the proposal to be operative upon filing.¹³

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.

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. Please include File Number SR-BSE-2008-30 on the subject line.

¹² See Securities Exchange Act Release No. 57712 (April 24, 2008), 73 FR 24100 (May 1, 2008) (order approving SR-Phlx-2007-69).

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

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-2008-30. 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 such 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-2008-30 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).