

For the Nuclear Regulatory Commission.
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35716; File No. SR-BSE-95-07]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc., Relating to Its Competing Specialist Pilot Program

May 15, 1995.

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 5, 1995, 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 prepared by the self-regulatory organization. On May 9, 1995, the BSE filed Amendment No. 1 with the Commission.³ 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 seeks to extend the current pilot program for competing specialists on its floor until October 2, 1995.

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 self-regulatory organization 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 III below. The self-regulatory organization 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 extend the current pilot program for competing specialists until October 2, 1995. The program currently provides for up to three competing specialists in a stock on the floor of the Exchange. The pilot program provides for both a regular specialist and a competing specialist(s) in a stock, whereas currently there is only one specialist in that stock. Orders can be directed to either specialist based on each customer's independent decision,⁴ but all orders in that stock will be executed in accordance with strict time priority. Once all limits at a price level are depleted, each specialist is responsible for the market orders directed to them specifically.

All limit orders entrusted to each competing specialist and the regular specialist will be represented and executed strictly according to time priority as to receipt of the order in the BEACON System. Thus incoming market and marketable limit orders will automatically execute against limit orders on the books according to the order in which the limit orders were received in the system.⁵ The regular specialist will be responsible for updating quotations; thus all competitors must communicate their markets to the regular specialist and be responsible for their portion of the published bid and/or offer. Openings and reopenings shall be coordinated through the regular specialist to ensure they are unitary. All ITS activity must be cleared through the regular specialist and only the regular specialist can input quotations to reflect the Boston market. Thus to all other markets in the National Market System, there will be only one Boston market. Trading halts will also be coordinated through the regular specialist and any trading halt will apply to all competitors in a stock.

The Exchange has adopted procedures to provide guidelines for the pilot program participants and for the Exchange in its administration of the

program.⁶ Any new competitive situation will be reviewed by the Exchange for the duration of the pilot program. Reports of specialists' dealings have been reviewed on a daily basis since the inception of the program and periodic reports have been provided to the Commission for review. In addition, the program was fully integrated into the Exchange's specialist performance evaluation program beginning in December 1994.

Certain technical changes necessitated by the proposed pilot program have been made to Chapter XV § 6 regarding the specialist's book to permit the competing specialist to see a summary of bids and offers at each price level in the subject stock.⁷ This will enable all competitors in a stock to know the combined market in that stock.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it furthers the objectives 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 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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 has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

⁶ See Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1994); BSE Rules Ch. XV §§ 18 and 6(iii).

⁷ The Commission notes that this change was made in the initial pilot and will carry forward through the extension being approved herein.

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

³ See letter from Karen Aluise, BSE, to Glen Barentine, SEC, dated May 9, 1995. In Amendment No. 1 the BSE removed its request to expand the pilot program by the number of securities, as well as the number of specialists per issue. The limitations imposed in the original approval order will remain through the extension (maximum of three specialists per stock; each specialist can compete in a maximum of 20 stocks). Thus, during the pilot program, the total number of stocks subject to competition will not exceed 360.

⁴ Non-specifically directed orders would be routed to the regular specialist.

⁵ The BEACON System will view all of the limits on the various books as one centralized book for purposes of order execution.

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-95-07 and should be submitted by [insert date 21 days of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the BSE's proposal to extend its preferencing pilot program to October 2, 1995 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act⁸ in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. The pilot is extended under the same conditions set out in the original pilot approval order.⁹

The Commission notes that pursuant to its original pilot approval order, the BSE was required to submit quarterly data reports and a report analyzing such data.¹⁰ The BSE has submitted data to the Commission. In addition, the Commission has received extensive commentary on the Cincinnati Stock Exchange's ("CSE") request for permanent approval of its preferencing

pilot¹¹ that present issues similar to those raised by the BSE pilot. In sum, the Commission is reviewing the comments and data submitted thus far, and believes that due to the complexity of the issues, and significant amount of data, the preferencing pilot should be extended to provide the Commission with adequate time to more thoroughly evaluate the data and the issues involved in the filing for permanent approval.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to avoid an unnecessary interruption to the pilot while allowing the Commission to continue to evaluate the data.

It is therefore ordered, pursuant to Section 19(b)(2)¹² that the proposed rule change is hereby approved, and the competing specialist pilot is extended through October 2, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITY AND EXCHANGE COMMISSION

[Release No. 34-35717; File No. SR-CSE-95-06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to the Preferencing of Public Agency Market and Marketable Limit Orders by Approved Dealers and Other Proprietary Members

May 15, 1995.

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 1, 1995, the Cincinnati Stock Exchange, Inc. ("CSE" 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 prepared by the self-regulatory organization. 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 Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") hereby proposes to extend the CSE's pilot program regarding preferencing until October 2, 1995. The pilot was initially approved by the Commission on February 7, 1991 and is currently extended until May 18, 1995. (Securities Exchange Act Release No. 28866).

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 self-regulatory organization 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 III below. The self-regulatory organization 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 rule filing is to extend the existing pilot program of the Exchange relating to the preferencing of public agency market and marketable limit orders by approved dealers and other proprietary members until October 2, 1995. The Commission originally approved the pilot on February 7, 1991, (Securities Exchange Act Release No. 28866, 56 FR 5854 (Feb. 13, 1991)). The Commission has subsequently extended the pilot several times. (Securities Exchange Act Release Nos. 29524 (Aug. 5, 1991), 56 FR 38160; 30353 (Feb. 7, 1992), 57 FR 5918; 31011 (Aug. 7, 1992), 57 FR 38704; 32280 (May 7, 1993), 58 FR 28422; 33975 (April 28, 1994), 59 FR 23243 and 34493 (Aug. 5, 1994)). The Commission staff has requested the Exchange seek a limited extension until the October date.

⁸ 15 U.S.C. 78f(b)(5) (1988).

⁹ The BSE competing specialist program is limited by the following: (1) a competing specialist may preference up to a maximum of 20 stocks; (2) the number of competitors in any given stock is limited to three (one regular specialist and two competing specialists); (3) no payment for order flow; and (4) no index arbitrage. The Commission also notes that prior to the original approval order the BSE represented that, during the pilot program, the total number of stocks subject to competition will not exceed 360. See Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1994).

¹⁰ See Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1995).

¹¹ See, File No. SR-CSE-95-03, Securities Exchange Act Release No. 35448 (March 7, 1995), 60 FR 13493 (March 13, 1995). The comments received on this proposal are available from the CSE or the Commission. (See Section III, *supra*.)

¹² 15 U.S.C. 78s(b)(2) (1988).

¹³ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).