

a flipping tracking system, the managing underwriter may delay the date a security is deemed "depository eligible" for up to three months after trading has commenced in the security. After the availability of a flipping tracing system, a new issue will be deemed to be depository eligible upon commencement of trading on Amex.

The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>6</sup> in that it is designed 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. That proposed rule change is designed to improve clearing and settlement practices in the industry while reducing risk to investors.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change will impose no burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

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

Within thirty-five 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 ninety 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 Amex 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.

Amex has requested accelerated effectiveness of the proposed rule change in order that the rule can become effective on June 7, 1995.<sup>7</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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 Section, 450 5th Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of Amex. All submissions should refer to file number SR-Amex-95-17 and should be submitted by June 14, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35735; File No. SR-BSE-95-09]

**Self-Regulatory Organizations; Boston Stock Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding Depository Eligibility Requirements**

May 18, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 18, 1995, the Boston Stock Exchange, Incorporated ("BSE") 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 primarily by BSE. The Commission is publishing this notice to solicit comments from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

BSE proposes to adopt a rule which will set forth depository eligibility requirements for issuers that apply to list their securities on BSE.

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

In its filing with the Commission, BSE 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 self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>2</sup>

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

Under the proposed rule change, BSE will adopt a uniform depository eligibility rule for issuers that desire to list their securities on BSE. The uniform rule has been developed by the Legal and Regulatory Subgroup of the U.S. Working Committee of the Group of Thirty in coordination with each of the national securities exchanges and the National Association of Securities Dealers ("NASD"). It is anticipated that each national securities exchange and the NASD will file rule changes proposing adoption of depository eligibility standards substantially similar to BSE's proposed rule and will seek to make such changes effective contemporaneously with the effective date of the transition from a five-day ("T+5") to a three-day ("T+3") settlement cycle. The transition is set to occur June 7, 1995.<sup>3</sup>

The proposed rule change will require issuers to ensure that securities to be listed on BSE have been included in the file of eligible issues maintained by a securities depository registered as a clearing agency under Section 17A of the Act.<sup>4</sup> This requirement will not apply to a security if the terms of such security cannot be reasonably modified to meet the criteria for depository eligibility at all securities depositories.

The proposed rule change sets forth additional requirements that must be met before a security will be deemed to be "depository eligible," as such term is used in Chapter III, Section 7 of the BSE rules ("uniform book-entry settlement rule").<sup>5</sup> The proposed rule specifies different requirements for depository eligibility depending upon whether a new issue is distributed by an

<sup>2</sup> The Commission has modified the language in these sections.

<sup>3</sup> Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adoption of Rule 15c6-1) and 34952 (November 9, 1994), 59 FR 59137 (change of effective date of Rule 15c6-1 from June 1, 1995 to June 7, 1995).

<sup>4</sup> 15 U.S.C. 78q-1 (1988).

<sup>5</sup> Pursuant to BSE's uniform book-entry settlement rule, trades by a member in depository eligible securities generally must be settled by book-entry through a securities depository.

<sup>6</sup> 15 U.S.C. 78f(b)(5) (1988).

<sup>7</sup> *Supra* note 3 and accompanying text.

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

underwriting syndicate before or after the date a securities depository system is available for monitoring repurchases of the distributed shares by syndicate members ("flipping tracking system").

Currently, a flipping tracking system is being developed that will include a securities depository service that (i) can be activated upon the request of the managing underwriter for a period of time that the managing underwriter specifies, (ii) in certain circumstances, will require the delivering participant to provide to the depository information sufficient to identify the seller of such shares as a precondition to the processing of book-entry delivery instructions for distributed shares, and (iii) will report to the managing underwriter the identity of any other syndicate member or selling group member whose customer(s) sold distributed shares (but will not report to the managing underwriter the identity of such customer[s]) and, in certain circumstances, will report to such syndicate member or selling group member the identity of such customer(s). Prior to the availability of a flipping tracking system, the managing underwriter may delay the date a security is deemed "depository eligible" for up to three months after trading has commenced in the security. After the availability of a flipping tracking system, a new issue will be deemed to be depository eligible upon commencement of trading on BSE.

The proposed rule change is consistent with Section 6(b)(5) of the Act<sup>6</sup> in that it is designed 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. The proposed rule is designed to reduce the number of transactions in depository eligible securities for which settlement is effected by the physical delivery of securities. By requiring that transactions between member firms and transactions between member firms and clients that settle on a delivery-versus-payment or receipt-versus-payment basis occur only with rare exceptions in a book-entry environment, the efficiency of the U.S. settlement system will be enhanced and the systemic risk of that system will be reduced.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

BSE 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*

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

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

Within thirty-five 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 ninety 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 BSE 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.

BSE has requested accelerated effectiveness of the proposed rule change in order that the rule can become effective on June 7, 1995.<sup>7</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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 Section, 450 5th Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of BSE. All submissions should refer to file number SR-BSE-95-09 and should be submitted by June 14, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35738; File Nos. SR-Amex-95-13, SR-CBOE-95-13, SR-NYSE-95-04, SR-PSE-95-05, and SR-PHLX-95-10]

**Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc. Relating to Permanent Approval of the Hedge Exemption Pilot Programs**

May 18, 1995.

On February 1, 1995, the Chicago Board Options Exchange, Inc. ("CBOE"); on February 3, 1995, the Philadelphia Stock Exchange, Inc. ("PHLX"); on February 21, 1995, the Pacific Stock Exchange, Inc. ("PSE"); on February 28, 1995, the New York Stock Exchange, Inc. ("NYSE"); and on March 14, 1995, the American Stock Exchange, Inc. ("Amex") (each individually referred to as an "Exchange" and two or more collectively referred to as "Exchanges"), 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> filed with the Securities and Exchange Commission ("SEC" or "Commission") proposed rule changes seeking permanent approval of the Exchanges' hedge exemption pilot programs.

The proposed rule changes were published for comment in the **Federal Register** on March 28, 1995.<sup>3</sup> No comments were received regarding the Exchanges' proposals.

The proposals filed by the Exchanges seek permanent approval of the Exchanges' pilot programs for exemptions from equity position limits for certain hedged positions.<sup>4</sup> In addition, the proposals filed by the CBOE, the NYSE, and the PSE also seek permanent approval of the Exchanges' pilot programs for position limit exemptions for certain hedged broad-based stock index option positions.<sup>5</sup>

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

<sup>3</sup> See Securities Exchange Act Release No. 35523 (March 22, 1995), 60 FR 15947.

<sup>4</sup> Position limits impose a ceiling on the aggregate number of options contracts on the same side of the market that can be held or written by an investor or group of investors acting in concert.

<sup>5</sup> Under the equity option hedge exemption pilots, the applicable position and exercise limits can never exceed twice the existing position limit. Under the CBOE's and the PSE's broad-based index hedge exemption pilots, the exempted positions

Continued

<sup>6</sup> 15 U.S.C. 78f(b)(5) (1988).

<sup>7</sup> *Supra* note 3 and accompanying text.

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1994).