SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41700; File No. SR–BSE–99–04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Minor Rule Violation Plan

August 3, 1999.

I. Introduction

On March 26, 1999, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Summary Fine Schedule of the Minor Rule Violation Plan through the addition of violations of Rule 11Ac1–4 under the Act (''Display Rule'').[3] Notice of the proposed rule change appeared in the **Federal Register** on May 20, 1999.[4] The Commission received no comment letters about the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend its Minor Rule Violation Plan (''Plan'') to include violations of the Display Rule which are inadvertent or unintentional. The amendment will allow the assessment of fines, rather than a full disciplinary procedure in such situations.

The proposal provides that failure to display a customer limit order immediately (no later than 30 seconds) after receipt will result in a written warning for the initial offense. A second offense will result in a $50 fine. Subsequent offenses will be fined at $100. The proposal allows for calculation of subsequent violations on the basis of a rolling 12 month period. Where violations of the Display Rule are found to be intentional, however, the Exchange is not precluded under the proposal from initiating formal Disciplinary Proceedings under Chapter XXX or imposing sanctions of more or less than the recommended fines (not to exceed $2,500 in any event).

III. Discussion

The Commission has reviewed carefully the Exchange's proposal, and finds, for the reasons set forth below, that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5), 6(b)(6), 11A(a)(1)(C)(iii) and (iv) of the Act and Rule 11Ac1–4 under the Act.[6] Section 6(b)(5) of the Act requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 6(b)(6) of the Act provides that the rules of an exchange provide that its members and associated persons be appropriately disciplined for violations of the Act and the rules of the exchange.

In Section 11A of the Act, Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure the practicability of brokers executing investors' orders in the best market. The proposed rule change should help to ensure the timely availability of information with respect to quotations.

The Display Rule, which the Commission adopted under Section 11A of the Act, requires specialists to display immediately, *i.e.*, as soon as practicable (which under normal market conditions means no later than 30 seconds from the time of receipt)[7] the price and full size of customer limit orders that would improve the bid or offer in a security or add to the size of the best bid or offer. The Commission believes that displaying customer limit orders benefits investors by providing enhanced execution opportunities and improved transparency.[8] The Commission finds that the proposal reinforces the obligations of an exchange specialist to display immediately certain customer limit orders in accordance with Sections 6 and 11A of the Act and the Display Rule.

Although the Commission believes that certain violations of the Display Rule are amenable to efficient and equitable enforcement and therefore are appropriate for inclusion in the Exchange's Plan, because a violation of the Display Rule amounts to a violation of federal securities law, the Commission expects that the Exchange will err on the side of caution in disposing of such violations under the Plan. The Commission expects the Exchange will continue to resolve intentional violations of the Display Rule through formal disciplinary proceedings.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change, as amended, is consistent with the provisions of the Act, and in particular with Sections 6(b)(5), 6(b)(6), 11A(a)(1)(C)(iii) and (iv) of the Act, and rule 11Ac1–4 under the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the act,[9] that the proposed rule change (SR–BSE–99–04), be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.11Ac1–4.

[4] Securities Exchange Act Release No. 41396 (May 13, 1999) 64 FR 27609.

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5), 15 U.S.C. 78f(b)(6), 15 U.S.C. 78k–1(a)(1)(C)(iii) and (iv), and 17 CFR 240.11Ac1–4.

[7] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (''Adopting Release''). A specialist is not displaying customer limit orders immediately if the specialist regularly executes customer limit orders at, for example, the 27th second after receipt. The requirement that a limit order be displayed ''immediately'' means that the limit order must be displayed as soon as practicable, but no later than 30 seconds after receipt under normal market conditions. This 30 seconds is an outer limit under normal market conditions and is not to be interpreted as a 30-second safe harbor.

[8] *Id.*

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41702; File No. SR–CBOE–98–53]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 1 and 2 to the Proposed Rule Change To Amend the Firm Quote Requirement

August 4, 1999.

On December 15, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the