

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41809; File No. SR-BSE-99-12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Amending Its Revenue Sharing Program

August 30, 1999.

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 July 30, 1999, the Boston Stock Exchange, Inc. ("Exchange") 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 by the BSE. The Commission is publishing this notice of 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 revise its Revenue Sharing Program to exclude non-BSE automated transaction fees.

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 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 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 purpose of the proposed rule change is to amend the Revenue Sharing Program highlighted on the BSE's Transaction Fee Schedule. Currently, the Exchange shares 50% of any excess monthly transaction related revenue above \$1,300,000 with those firms that generate \$50,000 in both BSE and non-BSE automated transaction fees. The Exchange proposes to exclude non-BSE automated transaction fees from this computation.³ Thus, under the proposed rule change, only firms that generate \$50,000 in BSE transaction fees will receive a share of excess revenue.⁴

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(4)⁶ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.⁷

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited or received comments on the proposed rule change.

³ Non-BSE automated transactions refer to trades executed through the New York Stock Exchange's Designated Order Turnaround (DOT) system. The Exchange wishes to tailor its Revenue Sharing Program to apply only to Base executed transactions. Telephone conversation between Kathy Marshall, Assistant Vice President, Finance, BSE, Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, and Sonia Patton, Attorney, Division, Commission, on August 26, 1999.

⁴ Eligible firms will receive excess revenue in the form of a credit that will be applied toward each firm's total monthly transaction fees. See Securities Exchange Act Release No. 40591 (Oct. 22, 1998), 63 FR 58078 (Oct. 29, 1998).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ The Commission notes that the filing may raise questions concerning payment for order flow. To the extent that it does raise such issues, exchange members should consider any associated disclosure obligations, namely pursuant to Rules 10b-10 and 11 Ac1-3 under the Act, 17 CFR 240.10b-10 and 17 CFR 240.11Ac1-3, respectively.

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

The proposed rule change establishes or changes a due, fee, or other charge imposed by the BSE and, therefore, has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and Rule 19b-4(f)(2)⁹ thereunder. At any time within 60 days of the filing of such 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.¹⁰

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to the File No. SR-BSE-99-12 and should be submitted by September 29, 1999.

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⁸ 15 U.S.C. 78s(b)(3)(A)(ii)

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ In reviewing this rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. 15 U.S.C. 78c(f).

¹¹ 17 CFR 200.30-3(a)(12).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19n-4.