

options listing standards will have to meet the options maintenance listing standards. The maintenance criteria provide that an underlying security will not meet the Exchange's requirements for continued listing when, among other things: (1) The trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of trust issued receipts for 30 or more consecutive trading days; (2) the trust has fewer than 50,000 receipts issued and outstanding; or (3) the market value of all receipts issued and outstanding is less than \$1,000,000. The Commission believes these criteria will help to ensure that a minimum level of liquidity will exist for options on trust issued receipts to control against manipulation and allow for the maintenance of fair and orderly markets. Furthermore, the Exchange will not open additional series or options on any HOLDER, without prior Commission approval, if: (1) The proportion of securities underlying standardized equity options to all securities held in a HOLDERS trust is less than 80 percent (as measured by their relative weightings in the HOLDERS trust); or (2) less than 80 percent of the number of securities held by a HOLDER trust underlie standardized options. The Commission believes that these additional criteria will ensure that a very significant portion of the individual component securities of the HOLDERS trust will be options eligible (either by market capitalization weighting or by total number of component securities), thereby assuring that the component securities for the most part will satisfy minimum thresholds previously approved by the Commission.

The Commission also believes that the surveillance standard developed by the Amex for options on trust issued receipts is adequate to address the concerns associated with the listing and grading of such securities. Specifically, the Amex has proposed to limit to 20 percent of the weight of the portfolio any component securities that are ADRs when the primary market for the securities underlying those ADRs' are in countries that are not subject to comprehensive surveillance agreements.

As a general matter, the Commission believes that comprehensive surveillance agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation, if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of

necessary regulatory, surveillance and other information from foreign jurisdictions. In evaluating the current proposal, the Commission believes that requiring comprehensive surveillance agreements to be in place between the Amex and the primary markets for ADRs that comprise 20 percent or more of the weight of the underlying portfolio upon which trust issued receipts are based provides an adequate mechanism for the exchange of surveillance sharing information necessary to detect and deter possible market manipulations. Further, as to the domestically-traded trust issued receipts themselves and the domestic stocks in the underlying portfolio upon which trust issued receipts are based, the Intermarket Surveillance Group ("ISG") Agreement²⁴ will be applicable to the trading of options on trust issued receipts.

Finally, the Commission believes that it is appropriate to require minimum margin of 100 percent of the current market value of the option plus 15 percent of the market value of the underlying security value for options on trust issued receipts based on a broad-based portfolio. Moreover, the Commission believes that requiring minimum margin of 100 percent of the current market value of the option plus 20 percent of the market value of the underlying security value for options on trust issued receipts based on a narrow-based portfolio is appropriate. The Commission notes that these margin requirements for options on trust issued receipts are comparable to margin requirements that currently apply to broad-based and narrow-based index options.

Amex has requested that the Commission find good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the day of publication of notice in the **Federal Register**. The Commission believes the proposal is similar to the proposal to list and trade options on exchange-traded fund shares previously reviewed and approved by the Commission.²⁵ The Commission also notes that there were no comment letters on the initial trust issued receipts filing. Furthermore, the Commission finds that the proposal raises no new regulatory issues and should benefit holders of trust issued receipts by

²⁴ ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983.

²⁵ See Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998).

permitting them to use options to manage the risks of their positions in the receipts. Accordingly, the Commission finds good cause to accelerate approval of the proposed rule change, as amended.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁶ that the proposed rule change (SR-AMEX-99-37), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42951; File No. SR-BSE-99-07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Amending its Minor Rule Violation Plan

June 16, 2000.

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 June 1, 1999, 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, II, and III below, which Items have been prepared by the Exchange. On March 24, 2000, the BSE submitted Amendment No. 1 to the proposed rule change.³ On May 30, 2000, the BSE submitted Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit

²⁶ 15 U.S.C. 78s(b)(2).

²⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the BSE proposes to incorporate the BSE's Minor Rule Violation Plan into the Boston Stock Exchange Guide, which is its rulebook. See letter with enclosures from William P. Cummings, Manager of Legal and Regulation, BSE, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, dated March 12, 2000 ("Amendment No. 1").

⁴ In Amendment No. 2, the BSE seeks to amend the Summary Fine Schedule of the Minor Rule Violation Plan to prohibit all forms of tobacco use. See letter with enclosures from John A. Boese, Assistant Vice President, Rule Development and Market Structure, BSE, to Richard Strasser, Assistant Director, Division, Commission, dated May 26, 2000 ("Amendment No. 2").

comments on the proposed rule change form interested persons.

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

The BSE seeks to amend the Summary Fine Schedule of the Minor Rule Violation Plan by adding the violation of "Failure to Attend Mandatory BEACON Training Sessions" and amending the prohibition titled "Violation of the Exchange Smoking Policy" to prohibit all forms of tobacco use. In addition, the Exchange proposes to incorporate the BSE's Minor Rule Violation Plan into the Boston Stock Exchange Guide, which is its rulebook.

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 BSE proposes to amend the Exchange's Minor Rule Violation Plan to include the failure to attend Market Performance Committee BEACON training sessions and to change the prohibition titled "Violation of the Exchange Smoking Policy" to prohibit all forms of tobacco use. The proposed addition to the Summary Fine Schedule will enable the Exchange to ensure that all floor members are fully trained on the BEACON system following enhancements for the handling of orders or the release of new versions of BEACON software. The Exchange believes that this will ensure that all customer orders are accorded the same professional attention by all specialists. The Exchange proposes a written warning for an initial offense, a \$50 fine for the second offense, and a \$100 fine for subsequent offenses. In addition, the Exchange proposes to prohibit all forms of tobacco use on the Equity Trading Floor. Currently, only smoking is prohibited.

The Exchange also proposes to incorporate the BSE's Minor Rule

Violation Plan into the Boston Stock Exchange Guide, which is its rulebook. The Plan provides an alternative method for the Exchange to use to discipline members who commit minor rule violations.

2. Statutory Basis

The BSE believes the proposed rule change is consistent with Section 6(b)(5)⁵ of the Act in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the Exchange believes that the proposal is consistent with Section 6(b)(6)⁶ of the Act, which requires that its members and persons associated with its members be appropriately disciplined for violations of the rules of the exchange.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 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 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 90 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 the self-regulatory organization 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.

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(6).

⁷ The Exchange added this statutory basis for the proposed rule change on June 5, 2000. Telephone conversation between John A. Boese, Assistant Vice President, Rule Development and Market Structure, BSE, and Joseph Corcoran, Attorney, Division, Commission, on June 5, 2000.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 in 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 File No. SR-BSE-99-07 and should be submitted by July 14, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42948; File No. SR-NYSE-00-20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Listed Company Fees for Closed-end Funds

June 15, 2000.

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 3, 2000, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.