III. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–2001–95), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–16689 Filed 7–2–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46123; File No. SR–BSE–2001–09]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Clearly Erroneous Transactions in Nasdaq Securities

June 26, 2002.

I. Introduction

On December 26, 2001, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), 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 related to clearly erroneous transactions in The Nasdaq Stock Market, Inc. (''Nasdaq'') securities. The proposed rule change was published for comment in the **Federal Register** on April 30, 2002.[3] No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to add a section to Chapter XXXV of its rules, which pertains to the trading of Nasdaq securities on the Exchange. Proposed Section 30 would govern situations in which there is an obvious error in any part of a Nasdaq security transaction. In large part, the proposed Section 30 conforms to Nasdaq Rule 11890, Clearly Erroneous Transactions, and obliges Exchange specialists to cooperate with officers of Nasdaq in their review of clearly erroneous transactions occurring on a Nasdaq system.

III. Discussion

The Commission finds that the proposed rule change is consistent with the provisions of section 6(b) of the Act,[4] in general, and section 6(b)(5) of the Act,[5] in particular, which requires, among other things, that the rules of an exchange be designed 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 not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The proposal establishes a BSE rule that is an analogue to Nasdaq Rule 11890(b) and (c), regarding clearly erroneous transactions. This rule will foster cooperation between BSE specialists and officers of Nasdaq who are reviewing trades on Nasdaq systems to determine if they are clearly erroneous. This cooperation is particularly important because BSE currently participates in Nasdaq's SuperSoes and SelectNet systems and intends to participate in Nasdaq's SuperMontage system once it is launched. The proposal should help to ensure that clearly erroneous transactions are dealt with in such a manner that a fair and orderly market is maintained and that investors and the public interest are protected.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–BSE–2001–09) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–16691 Filed 7–2–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46119; File No. SR–CBOE–2002–16]

Self Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Removal of the Restriction on Floor Brokers From Trading in the Same Crowds as Affiliated Designated Primary Market-Makers

June 25, 2002.

On April 18, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), 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 delete existing CBOE Rule 8.91(d) that prohibits a member affiliated with a Designated Primary Market-Maker (''DPM'') from acting as a floor broker in any trading crowd in which that DPM is the appointed DPM.

The proposed rule change was published for comment in the **Federal Register** on May 17, 2002.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 of the Act[4] and the rules and regulations thereunder.[5] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which, among other things, requires that the CBOE's rules be designed to facilitate transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system. According to the CBOE, its Rule 8.91(d) was originally intended to prevent DPMs from circumventing their affirmative obligations, such as placing eligible public orders in the book, according priority to any order which the DPM acts as agent over the DPM's

[17] 15 U.S.C 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45799 (April 22, 2002), 67 FR 21304.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 5 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–2(a)(12).

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

[1] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45909 (May 10, 2002), 67 FR 35165.

[4] 15 U.S.C. 78f.

[5] In approving this proposed rule change, the Commission notes that it 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).