

## II. Safety Evaluation Report (SER) Summary

The purpose of the amendment is to terminate ATK's source material license and authorize for unrestricted release the licensee's former depleted uranium production facilities located at the Twin Cities Army Ammunition Plant, Arden Hills, Minnesota. The licensee started production of uranium munitions in 1976, and ceased production activities during 1988. The licensee conducted surveys of its former facilities and site and provided on June 18, 2004, information to the NRC to demonstrate that the site meets the licensee's termination criteria specified in its NRC-approved decommissioning plan.

The staff prepared the SER in support of the license amendment. Based on its review, the NRC staff has determined that the licensee's final status surveys are adequate to demonstrate compliance with radiological criteria for license termination, and that ATK has demonstrated that the former depleted uranium production site radiological conditions comply with the radiological criteria for license termination. The NRC staff has reviewed the proposed amendment and has determined that the proposed termination will have no adverse effect on the public health and safety or the environment.

## III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: the ATK letter dated June 2, 2004 (Accession No. ML042870518); the licensee's letter dated June 18, 2004, with Safety and Ecology Corporation "Final Status Survey Report, Depleted Uranium Facilities, Twin Cities Army Ammunition Plant, New Brighton, Minnesota," Project 1350, Revision 2, June 2004 (Accession No. ML042950257) attached, and the SER summarized above (Accession No. ML043560261). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Please note that on October 25, 2004, the NRC terminated public access to ADAMS and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's Web site. Interested members of the public may obtain copies of the referenced documents for review and/or copying by contacting the Public Document Room pending resumption of public access to ADAMS. The NRC Public Documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397-4209 or (301) 415-4737 or [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 21st day of December 2004.

For the Nuclear Regulatory Commission.

**Kenneth G. O'Brien,**

*Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.*

[FR Doc. 04-28675 Filed 12-30-04; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50928; File No. SR-BSE-2004-59]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. To Amend the Exchange's Rule Relating to its Regulatory Transaction Fee

December 23, 2004.

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> notice is hereby given that on December 17, 2004, 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. The proposed rule change has been filed by BSE as a "non-controversial" rule change pursuant to 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which tenders the proposal effective on

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

filing with the Commission. The Commission is publishing this notice to 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 amend chapter XXIII, section 2 of the BSE Rules relating to the Exchange's regulatory transaction fee.

The text of the proposed rule change is set forth below. Proposed new language is italicized; deletions are bracketed.

\* \* \* \* \*

### Rules of the Boston Stock Exchange Chapter XXIII: Stamp Taxes—Transaction Fee

Sec. 1—No change.

*Regulatory Transaction Fee* [Under Securities Exchange Act of 1934]

Sec. 2. So long as the Exchange shall be registered as a national securities exchange, there shall be paid to the Exchange by each member of member-organization monthly in such manner and at such time as the Exchange shall direct, *a regulatory transaction fee. The monthly regulatory transaction fee shall equal the member's aggregate dollar amount of covered sales occurring that month (other than those resulting from options transactions) divided by the Exchange's aggregate dollar amount of covered sales (other than those resulting from options transactions) occurring that month, multiplied by the Section 31 fees payable by the Exchange to the Commission for that month, multiplied by the Section 31 fees payable by the Exchange to the Commission for that month (other than those resulting from options transactions).* [the sum of one cent for each \$300 or fraction thereof of the dollar volume of the sales of securities upon the Exchange (whether or not cleared through the Boston Stock Exchange Clearing Corporation) by such member or member-organization during the preceding month]. [Any such member or member-organization required by the foregoing Rule to pay any sum to the Exchange in respect of any sale upon the Exchange shall charge and collect from the person for whom he or it was acting in making such transaction, the sum of one cent for each \$300 or fraction thereof of the dollar amount involved in such transaction.]

Sec. 3—No change.

\* \* \* \* \*

## 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 Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

#### 1. Purpose

The Exchange proposes to amend chapter XXIII, section 2 of the BSE Rules regarding transaction fees to change language in the rule to represent that the Exchange will be assessing a fee to each member for sales of securities on the Exchange and that the aggregate amount of all such fees assessed to Exchange members will reflect as nearly as possible the fee assessed to the Exchange by the Commission pursuant to section 31 of the Act.<sup>5</sup> The transaction fee covered by this rule is applicable to equity securities only. The Exchange anticipates filing a rule in the future to assess a transaction fee for options transactions.

The regulatory transaction fee, similar to the fee the Exchange has collected in the past, will equal as nearly as possible, the member's aggregate dollar amount of cover sales<sup>6</sup> occurring that month (other than those resulting from options transactions) divided by the Exchange's aggregate dollar amount of covered sales (other than those resulting from options transactions) occurring that month, multiplied by the amount of section 31 fees payable by the Exchange to the Commission for that month (other than those resulting from options transactions). To the extent that additional funds are collected, they will be used for other proper regulatory purposes.

The Exchange is also proposing eliminating language in chapter XXIII, section 2 of the BSE Rules, which directs BSE members to charge persons for whom the member makes a transaction on the Exchange an amount equivalent to the charge which the member is assessed. Since fees assessed

under section 31 of the Act are the responsibility of the Exchange, BSE will not require, by rule or otherwise, that its members charge their customers in any manner a fee for which the ultimate customer is not responsible.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>7</sup> in general, and section 6(b)(4) of the Act,<sup>8</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 neither solicited nor received comments in connection with the proposed rule change.

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

Because, the foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

BSE has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because doing so will make chapter XXIII, section 2 of the BSE Rules consistent with the Commission's guidance on section 31 of the Act as quickly as possible. For these reasons,

the Commission hereby designates the proposal to be effective and operative upon filing with the Commission.<sup>11</sup>

At any time within 60 days of the filing of this 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.

### 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. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
  - Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov).
- Please include File Number SR-BSE-2004-59 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-BSE-2004-59. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal

<sup>11</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 19 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> 15 U.S.C. 78ee.

<sup>6</sup> See 17 CFR 240.31(a)(6).

office of BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BSE-2004-59 and should be submitted on or before January 24, 2009.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-28669 Filed 12-30-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50907; File No. SR-CBOE-2004-04]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto To Amend the Exchange's Guaranteed Participation Rule Relating to Facilitation and Crossing Transactions

December 22, 2004.

On January 16, 2004, the Chicago Board Options Exchange, Inc. ("CBOE" 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend CBOE Rule 6.74, Crossing Orders, relating to facilitation and crossing transactions. On November 3, 2004, CBOE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on November 18, 2004.<sup>4</sup> The Commission received no comments on the proposal.

CBOE proposes to amend Exchange Rule 6.74 with respect to the guaranteed participation to which a floor broker is entitled when seeking to execute crossing and facilitation transactions. Under the current rule, after requesting

a market from the trading crowd, a floor broker seeking to cross an order he or she is holding with another order, or, in the case of a public customer order, with a facilitation order from the firm from which the public customer order originated, is entitled to a guaranteed participation of 20% when the order trades at a price that matches the price given by the trading crowd in response to the initial request for a market, and 40% when the order trades at a price that improves upon that price. The proposed rule change would entitle the floor broker to a 40% guarantee in both cases.<sup>5</sup>

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,<sup>6</sup> and, in particular, the requirements of section 6(b)(5) of the Act.<sup>7</sup> The Commission has found with respect to participation guarantees in other contexts that a maximum guarantee of 40% is not inconsistent with statutory standards of competition and free and open markets.<sup>8</sup>

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act<sup>9</sup>, that the proposed rule change (File No. SR-CBOE-2004-04), as amended, be, and hereby is, approved.

<sup>5</sup> These guaranteed percentages apply after all public customer orders that were on the limit order book and represented in the trading crowd at the time the market was established have been satisfied. The proposal would also amend CBOE Rule 6.74(d)(v) to make corresponding changes to the DPM participation entitlement as it pertains to facilitation and crossing orders. Specifically, the rule would be amended to state that DPMs are not entitled to any guaranteed participation for trades occurring pursuant to CBOE Rule 6.74(d) unless the floor broker crosses less than its guaranteed 40%, in which case the DPMs guarantee would be a percentage that, when combined with the firm's percentage, does not exceed 40% of the order. The intent of the provision is that the aggregate of the guarantees may not exceed 40% of the remainder of the order after public customer orders have been satisfied. Telephone conversation between Stephen Youhn, Legal Division, CBOE, and Ira Brandriss, Assistant Director, Division, Commission, on December 17, 2004.

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact of efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> See, e.g., Securities Exchange Act Release Nos. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) at 11398; and 43100 (July 31, 2000), 65 FR 48778 (August 9, 2000) at notes 96-99 and accompanying text.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Docket No. 34-50924; File No. SR-CBOE-2004-67]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating To Split Price Priority

December 23, 2004.

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> notice is hereby given that on October 20, 2004, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "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 CBOE. On December 17, 2004, CBOE amended the proposed rule change ("Amendment No. 1").<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

CBOE proposes to amend its split price trading rule. The text of the proposed rule change, as amended, is set forth below. Proposed new language is in *italics*; deletions are in [brackets].

\* \* \* \* \*

#### Rule 6.47. Priority on Split Price Transactions Occurring in Open Outcry

(a) Purchase *or sale* priority. If a member purchases (*sells*) one or more option contracts of a particular series at a particular price or prices, he shall, at the next lower (*higher*) price at which a

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> In Amendment No. 1, CBOE amended the proposed rule change to: (i) Remove the parenthetical "(or a reasonably larger number)" from current CBOE Rule 6.47(a) and from the proposed rule text of CBOE Rule 6.47(b); and (ii) revise proposed Interpretations and Policies .01 to clarify that if a floor broker is required to yield, he must yield to "orders for the accounts of non-members."

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

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

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

<sup>3</sup> See Letter from Stephen Youhn, Legal Division, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 2, 2004 ("Amendment No. 1"). Amendment No. 1 replaced and superseded the original filing in its entirety.

<sup>4</sup> See Securities Exchange Act Release No. 50655 (November 10, 2004), 69 FR 67614.