

*D. Accelerated Approval of the Proposed Rule Change as Modified by Amendments No. 3 and 4 Thereto*

The Commission finds good cause to approve the proposed rule change as modified by Amendments No. 3 and 4 prior to the 30th day after the amendment is published for comment in the **Federal Register**. Amendments No. 3 and 4 makes clarifying changes to the description of the proposed rule change. The Commission believes that, as a whole, Amendments No. 3 and 4 strengthen the proposed rule change and do not raise any new regulatory issues. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,<sup>27</sup> to approve the proposal, as amended, on an accelerated basis.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>28</sup> that the proposed rule change (SR-Amex-2006-76), as modified by Amendments No. 1, 2, 3, and 4 be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>29</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55015; File No. SR-BSE-2006-55]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Definition of Complex Trade as Applied to Trades Through the Intermarket Linkage

December 28, 2006.

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 13, 2006, 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 substantially prepared by the Exchange. The BSE filed Amendment

No. 1 to the proposal on December 27, 2006. 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

The BSE proposes to amend Chapter XII, Section 1(c) of the rules of the Boston Options Exchange ("BOX") to revise the definition of "Complex Trade" as such definition applies to trades through the Intermarket Linkage ("Linkage"). The text of the proposed rule change appears below, with additions *italicized* and deletions in [brackets]:

#### Chapter XII. Intermarket Linkage Rules Sec. 1 Definitions

The following terms shall have the meaning specified in this Section 1 solely for the purpose of this Chapter XII:

(a)-(b) No Change.

(c) "Complex Trade" means the execution of an order in an options series in conjunction with the execution of one or more related orders in different options series in the same underlying security occurring at or near the same time *for the purpose of executing a particular investment strategy and for an equivalent number of contracts of the legs of a spread, straddle, or combination order may differ by a permissible ratio* [for the equivalent number of contracts and for the purpose of executing a particular investment strategy]. *The permissible ratio for this purpose is any ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00).*

(d)-(s) 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 substantially 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

This proposed rule change will amend the definition of "Complex Trade" in Chapter XII, Section 1(c) of the BOX Rules. For Linkage purposes, the BOX Rules define a "Complex Trade" as a trade reflecting the execution of an order in an options series in conjunction with one or more other orders in different series in the same underlying security "for the equivalent number of contracts." A Complex Trade is exempt from the trade-through rule.<sup>3</sup>

In contrast to the Linkage definition of "Complex Trade," Chapter V, Section 27(a) of the BOX Rules defines "complex orders" for other purposes on the Exchange. This definition includes "Ratio Orders," which do not require that there be an equivalent number of contracts in the orders.<sup>4</sup> Specifically, the rule permits ratios that are equal to or greater than one-to-two. The Exchange applies modified priority rules to complex orders.

According to the BSE, the proposed rule change will conform the Linkage definition of Complex Trade to BOX's general definition of the concept. The BSE represents that the other five options exchanges are adopting a similar definition, which will result in uniform application of the term across all options exchanges. The BSE believes that such uniformity will facilitate the speedy execution of complex trades on all markets.

#### 2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) of the Act<sup>5</sup> that the rules of a national securities exchange be designed to promote just and equitable principles of trade, 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. In particular, the BSE believes that the proposed rule change will make BOX's Linkage Rules consistent with BOX's internal market rules and will facilitate the trading of complex orders.<sup>6</sup>

<sup>3</sup> See Box Rules, Chapter XII, Section 3(b)(vii).

<sup>4</sup> See Box Rules, Chapter V, Section 27(a)(vi).

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

<sup>6</sup> See Amendment No. 1.

<sup>27</sup> 15 U.S.C. 78s(b)(2).

<sup>28</sup> 15 U.S.C. 78s(b)(2).

<sup>29</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.

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

The BSE does not believe that the proposed rule change will impose any burden on competition 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 BSE 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.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 No. SR-BSE-2006-55 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-BSE-2006-55. 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-2006-55 and should be submitted on or before January 29, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55025; File No. SR-CBOE-2006-96]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Regarding Allocation of Stocks to CBSX DPMs

December 29, 2006.

#### I. Introduction

On November 20, 2006, the Chicago Board Options Exchange, Incorporated ("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" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal relating to the allocation of stocks for the CBOE Stock Exchange ("CBSX"). The proposal was published for comment in the **Federal Register** on November 27, 2006.<sup>3</sup> The Commission received no comments on the proposal.

<sup>7</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 Securities Exchange Act Release No. 54792 (November 20, 2006), 71 FR 68659.

This order approves the proposed rule change.

#### II. Description of the Proposal

The purpose of this filing is to adopt rules that would allow for the allocation of stocks to CBSX DPMs.

The Exchange has represented that it intends to submit a proposal to modify Chapters 50-55 of its rules, which govern the trading of non-option securities on the Exchange,<sup>4</sup> in connection with the establishment of CBSX (the "CBSX Trading Rules Proposal"). In addition, the Exchange has proposed rules to establish CBSX as a facility of the Exchange (the "CBSX Facility Proposal").<sup>5</sup> If the Commission approves these proposals, CBSX would be a facility of the Exchange and would serve as the Exchange's vehicle for trading non-option securities. In addition, the Exchange has filed for immediate effectiveness a proposal to appoint CBSX DPMs (the "CBSX DPM Appointment Proposal").<sup>6</sup> Any appointments under the CBSX DPM Appointment Proposal and any allocations made to such DPMs under this proposal would be contingent on Commission approval of the CBSX Trading Rules Proposal—in particular, those rules governing DPM trading procedures and obligations on CBSX—and the CBSX Facility Proposal.

Initial CBSX DPM stock allocations would be handled pursuant to proposed CBOE Rule 53.54. For the initial launch, and potentially in instances where CBSX seeks to commence trading a number of new securities at one time, CBSX would conduct a "draft" for eligible CBSX DPMs to select available stocks. The draft order would be determined randomly. In connection with the initial launch, the draft would apply to the first 500 securities selected.<sup>7</sup> The remaining securities slated for trading on CBSX would be allocated randomly by CBSX to the CBSX DPMs equally.

CBSX would utilize proposed CBOE Rule 53.54 for future stock allocations as well. In those cases, a draft could be

<sup>4</sup> See Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (approving SR-CBOE-2004-21). See also Securities Exchange Act Release No. 54526 (September 27, 2006), 71 FR 58646 (October 4, 2006) (approving SR-CBOE-2006-70).

<sup>5</sup> See SR-CBOE-2006-110 (filed December 26, 2006).

<sup>6</sup> See Securities Exchange Act Release No. 54831 (November 29, 2006), 71 FR 70814 (December 6, 2006) (notice of filing and immediate effectiveness of SR-CBOE-2006-100).

<sup>7</sup> Telephone conversation between Angelo Evangelou, Assistant General Counsel, CBOE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, November 20, 2006.