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The Office of the Secretary at (202) 551-5400.

Dated: February 13, 2007.

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55260; File No. SR-BSE-2007-04]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Time Period for the Position Limits Pilot Program

February 8, 2007.

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 January 31, 2007, 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 and II below, which Items have been substantially prepared by BSE. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it effective upon 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

BSE proposes to amend Chapter III, Section 7 (Position Limits) of the Rules of the Boston Options Exchange ("BOX"), an options trading facility of BSE, to extend its current pilot program to increase the standard position and exercise limits for equity option contracts and options on the Nasdaq-100 Index Tracking Stock ("QQQQ") ("Pilot Program"). The text of the proposed rule change is available at BSE, the Commission's Public Reference Room, and [www.bostonstock.com](http://www.bostonstock.com).

<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).

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

In its filing with the Commission, 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 Exchange 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 Pilot Program provides for an increase to the standard position and exercise limits for equity option contracts and for options on QQQQs for a six-month period.<sup>5</sup> Specifically, the Pilot Program increased the applicable position and exercise limits for equity options and options on the QQQQ to the following levels:

Current equity option contract limit <sup>6</sup>	Pilot program equity option contract limit
13,500 contracts.	25,000 contracts.
22,500 contracts.	50,000 contracts.
31,500 contracts.	75,000 contracts.
60,000 contracts.	200,000 contracts.
75,000 contracts.	250,000 contracts.
Current QQQQ option contract limit	Pilot program QQQQ option contract limit
300,000 contracts.	900,000 contracts.

<sup>6</sup> Except when the Pilot Program is in effect.

The Exchange believes that extending the Pilot Program for six months is warranted due to positive feedback from members and for the reasons cited in the original rule filing that proposed the adoption of the Pilot Program.<sup>7</sup> In addition, BOX has not encountered any problems or difficulties relating to the Pilot Program since its inception. For these reasons, the BSE requests that the Commission extend the Pilot Program

<sup>5</sup> The Pilot Program, which began on March 3, 2005, was extended on August 15, 2005, February 22, 2006, and August 30, 2006. See Securities Exchange Act Release Nos. 51317 (March 3, 2005), 70 FR 12254 (March 11, 2005) (SR-BSE-2005-10) ("Pilot Program Notice"); 52264 (August 15, 2005), 70 FR 48992 (August 22, 2005) (SR-BSE-2005-37); 53347 (February 22, 2006), 71 FR 10573 (March 1, 2006) (SR-BSE-2006-07); and 54388 (August 30, 2006), 71 FR 52833 (September 7, 2006) (SR-BSE-2006-32).

<sup>7</sup> See Pilot Program Notice, *supra* note 5.

for an additional six months, through and including September 1, 2007.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objective of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

##### 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

Because the foregoing rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>12</sup> However, Rule 19b-4(f)(6)(iii)<sup>13</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. BSE has satisfied the five-day pre-filing requirement.

<sup>13</sup> *Id.*

consistent with the protection of investors and in the public interest because it will allow the Pilot Program to continue uninterrupted.<sup>14</sup>

At any time within 60 days of the filing of the 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 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 No. SR-BSE-2007-04 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-BSE-2007-04. 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 will also be available for inspection and copying at the principal office of BSE. All comments received will be posted

<sup>14</sup> For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 No. SR-BSE-2007-04 and should be submitted on or before March 8, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-2608 Filed 2-14-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55263; File No. SR-CBOE-2005-111]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Multiple Representation Exception Procedures

February 9, 2007.

On December 16, 2005, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt additional exceptions to the prohibition on multiple representation by Market Makers contained in CBOE Rule 6.55.<sup>3</sup> On October 17, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on December 6, 2006.<sup>4</sup> The Commission received no comments regarding the proposal.

Rule 6.55 is intended to ensure that Market Makers are not disproportionately represented in the trading crowd. The general prohibition of Rule 6.55 provides, in relevant part, that no Market-Maker shall enter or be present in a trading crowd while a Floor Broker present in the trading crowd is holding an order on behalf of the Market Maker's individual account or an order

initiated by the Market-Maker for an account in which the Market-Maker has an interest.<sup>5</sup>

The proposed rule change would add to the Rule's current exceptions by permitting a Market-Maker to enter or be present in a trading crowd in which a Floor Broker is present who holds either a solicited order on behalf of the Market Maker's individual or joint account or a solicited order initiated by the Market-Maker for an account in which the Market Maker has an interest—provided that the Market-Maker advises the Floor Broker of his or her intention to enter or be present in the trading crowd and also refrains from trading in-person on the same trade as the original order.<sup>6</sup> The proposed rule change would further permit a Market-Maker to enter or be present in a trading crowd in which a Floor Broker is present who holds an order on behalf of the Market Maker's individual account or an order the Market Maker initiated for an account in which the Market Maker has an interest (*i.e.*, even when that order is not a solicited order)—provided that the Market-Maker advises the Floor Broker of his or her intention to enter or be present in the trading crowd and also refrains from trading in-person on the same trade as the order being represented by the Floor Broker.

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, with Section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, 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.<sup>8</sup>

<sup>5</sup> Rule 6.55 also provides that regulatory circulars concerning joint accounts should be consulted in connection with procedures governing the simultaneous presence in the trading crowd of participants in and orders for the same joint account. These circulars, among other things, extend the prohibition against multiple representation to cover joint account activity in certain circumstances.

<sup>6</sup> In the case of joint accounts, it would be the responsibility of the Market-Maker to ascertain whether solicited orders for his or her joint account had already been entered with a Floor Broker in a trading crowd prior to his or her trading for the joint account in-person.

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

<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

<sup>15</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> The proposed rule change would also make revisions to certain procedures in Rule 6.55 that have become outdated.

<sup>4</sup> See Securities Exchange Act Release No. 54823 (November 28, 2006), 71 FR 70810.