

Shares of the Fund may be offered to both VA Accounts and VLI Accounts and, if applicable, to Plans, (b) due to differences in tax treatment and other considerations, the interests of various Variable Contract owners participating in the Insurance Fund and the interests of Plan participants investing in the Insurance Fund, if applicable, may conflict, and (c) the Insurance Fund's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflicts.

11. If and to the extent Rule 6e-2 and Rule 6e-3(T) under the Act are amended, or Rule 6e-3 under the Act is adopted, to provide exemptive relief from any provision of the Act, or the rules thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in this Application, then each Insurance Fund and/or Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e-2 or 6e-3(T), as amended, or Rule 6e-3, to the extent such rules are applicable.

12. Each Participant, at least annually, shall submit to the Board of each Insurance Fund such reports, materials or data as the Board reasonably may request so that the directors/trustees of the Board may fully carry out the obligations imposed upon the Board by the conditions contained in this Application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board of an Insurance Fund. The obligations of the Participants to provide these reports, materials and data to the Board, when it so reasonably requests, shall be a contractual obligation of all Participants under their Participation Agreement with the Insurance Fund.

13. All reports of potential or existing conflicts received by the Board of each Insurance Fund, and all Board action with regard to determining the existence of a conflict, notifying Participants of a conflict and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

14. Each Insurance Fund will not accept a purchase order from a Plan if such purchase would make the Plan an owner of 10 percent or more of the net assets of the Insurance Fund unless the Plan executes an agreement with the Insurance Fund governing participation in the Insurance Fund that includes the

conditions set forth herein to the extent applicable. A Plan will execute an application containing an acknowledgement of this condition at the time of its initial purchase of shares.

Conclusions

Applicants submit, for all the reasons explained above, that the exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56193; File No. SR-Amex-2007-38]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change Amending Preferred Stock Voting Rights

August 2, 2007.

I. Introduction

On April 20, 2007, the American Stock Exchange LLC ("Amex" 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 amend the minimum voting rights that must be provided to preferred shareholders in order for a preferred stock issue to list on the Amex. The proposed rule change was published for comment in the **Federal Register** on July 7, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Section 124 of the Amex Company Guide, "Preferred Voting Rights," provides that the Exchange may decline to list a preferred stock issue on the Amex if the issuer does not provide certain minimum voting rights to holders of preferred stock. Specifically, under the current rule, the Exchange

may decline to list a preferred stock issue unless the preferred shareholders have the right, voting as a class, to vote on: (i) Any change in the rights, privileges or preferences of their preferred shares; and (ii) the creation of any additional class of preferred stock senior to or equal in preference to their preferred shares. The rule provides that any such change in the rights, privileges or preferences of preferred shares and any creation of an additional class of senior preferred stock must be approved by at least two-thirds of the preferred shareholders. Any creation of an additional class of preferred stock equal in preference must be approved by at least a majority of the preferred shareholders.

The Exchange now proposes to modify the minimum preferred voting rights required for listing of a preferred stock issue on the Amex. First, the Exchange proposes to amend the provision relating to changes in the rights, privileges, or preferences of preferred shareholders, to provide that holders of at least two-thirds of the outstanding shares of a preferred stock issue should be required for the adoption of any charter or by-law amendment that would materially affect existing terms of the preferred stock. The amended rule would also provide that, if all series of a class of preferred stock are not equally affected by a proposed change to the terms of the preferred stock, two-thirds approval of both the class and the series that will have a diminished status should be required to authorize such change. The Exchange also proposes to require that an issuer's charter not hinder the preferred shareholders' right to alter the terms of their stock by limiting modification to specific items, e.g., interest rate, redemption price.

With respect to the creation of a senior issue, the amended rule would continue to provide that the creation of a senior issue should require approval of at least two-thirds of the outstanding preferred shares. However, the Exchange proposes to amend the rule to also provide that a vote by an existing series of preferred stock is not required for the board of directors of an issuer to create a senior series of preferred stock if shareholders authorized such action when the existing series was created. Further, a vote by an existing class is not required for the creation of a senior issue if the existing class received adequate notice of redemption to occur within 90 days and the existing issue is not being retired with proceeds from the sale of the new issue.

The amended rule would also provide that an increase in the authorized

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 55963 (June 26, 2007), 72 FR 36081.

amount of a class of preferred stock or the creation of a pari passu issue is required to be approved by a majority of the outstanding shares of the class or classes to be affected by such change. However, a majority vote would not be required if, at the time a class of preferred stock was created, the preferred shareholders gave the board of directors the authority to increase the authorized amount of a series of preferred stock or create an additional series of preferred stock equal in preference.

III. Discussion

After careful review, 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,⁴ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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.⁵

The Commission notes that the proposed rule change will make Amex's listing requirements relating to minimum preferred voting rights substantially similar to those of the New York Stock Exchange LLC ("NYSE").⁶ The Commission believes that the proposed rule change may provide additional flexibility to issuers of preferred stock with regard to their ability to raise capital, while at the same time, ensuring that preferred shareholders will retain important voting rights. The proposal also ensures that the rights and privileges of the preferred shareholders are protected and cannot be changed without prior approval of the preferred shareholders.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-Amex-2007-38) be, and hereby is, approved.

⁴ 15 U.S.C. 78f(b)(5).

⁵ 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).

⁶ See Section 313.00(C) of the NYSE Listed Company Manual.

⁷ 15 U.S.C. 78s(b)(2).

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

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56194; File No. SR-BSE-2007-32]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Amend the Existing Fee Schedule

August 2, 2007.

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 July 5, 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, II, and III below, which Items have been substantially prepared by the Exchange. The BSE has designated this proposal as one changing a due, fee, or other charge under section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. On July 20, 2007, BSE filed Amendment No. 1 to the proposed rule change.⁵ 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 certain transaction fees set forth in the Boston Equities Exchange ("BeX") fee schedule. The text of the proposed rule change is available at <http://www.bostonstock.com>, at the BSE, and at the Commission's Public Reference Room.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ In Amendment No. 1, the Exchange replaced the term Intermarket Sweep Order ("ISO") with the phrase "order routed as a part of an NMS Cross Order" and the term "Reg NMS cross" with the phrase "NMS Cross Order". In addition, the Exchange updated the BeX fee schedule to reflect these changes.

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 aspects of such statements.

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

1. Purpose

On November 20, 2006, the BSE filed File No. SR-BSE-2006-44,⁶ a rule filing that amended the existing BSE fee schedule and established a fee schedule for the BeX, a facility of the Exchange. On March 5, 2007, a subsequent filing, SR-BSE-2007-13,⁷ was made to add a new Smart Order Routing fee. On June 28, 2007, the Exchange filed an additional fee filing, SR-BSE-2007-29⁸ to lower the rate for this service.

In this filing, the Exchange is proposing to implement a fee for orders routed as a part of an NMS Cross Order,⁹ which the Exchange has developed to help firms comply with the trade-through requirements of Regulation NMS. An NMS Cross Order consists of a priced cross with two quantities: (i) The quantity that the customer wants to cross; and (ii) the "disinterest" quantity, which is the additional single-sided amount that the customer is willing to add in order to fulfill Regulation NMS obligations.

When this new order type is received, the Exchange will look at the best bids and offers at all Regulation NMS venues and route orders, as needed, up to the disinterest quantity. The cross will then be executed and reported back to the customer, along with any executions from the routed orders. If the disinterest quantity is not large enough to satisfy the size of the total trade-through on all markets, no orders will be routed and the entire cross will be rejected.

⁶ See Securities Exchange Act Release No. 54795 (November 20, 2006), 71 FR 68850 (November 28, 2007).

⁷ See Securities Exchange Act Release No. 55529 (March 26, 2007), 72 FR 15734 (April 2, 2007).

⁸ See Securities Exchange Act Release No. 56129 (July 25, 2007), 72 FR 42157 (August 1, 2007).

⁹ See Securities Exchange Act Release No. 55903 (June 13, 2007), 72 FR 33792 (June 19, 2007) (SR-BSE-2007-24).