person is subject to a statutory disqualification. In such an instance, the Exchange reviews the fingerprint results to determine the possible existence of a statutory disqualification as defined in section 3(a)(39) of the Act, and takes appropriate action, if necessary, concerning eligibility or continued eligibility of the individual for employment or association with an Exchange member.

The Commission has reviewed the procedures detailed in the Plan and believes that the Plan is consistent with the public interest and the protection of investors. Thus, the Commission declares the Plan effective.

The Commission notes that the securities industry fingerprinting procedures are in a state of flux due to rapidly advancing technology. In the event that an industry-wide standard is adopted or becomes prevalent and in the event that this Plan substantially differs therefrom, the Commission would expect the BSE to revise its fingerprint plan to incorporate the industry-wide standard.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[3]

Florence E. Harmon,

Deputy Secretary.

Exhibit A

Boston Stock Exchange Fingerprinting Plan

The Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') submits this Fingerprint Plan (''Plan'') pursuant to section 17(f)(2) of the Securities Exchange Act of 1934 (''Act'') and Rule 17f–2(c) thereunder.

The purpose of this Plan is to facilitate compliance by Exchange Members with section 17(f)(2) of the Act and Rule 17f–2(c) thereunder, by providing a facility for the fingerprints of directors, partners, officers and employees of Exchange members to be submitted to the Attorney General of the United States or his designee (''Attorney General'') and processed electronically.

The Exchange has established an arrangement with the Financial Industry Regulation Authority, Inc. (''FINRA''), to permit all individuals that must be registered with, or approved by, the Exchange (''registered persons'') to be electronically registered with the Exchange through FINRA's Web Central Registration Depository (''Web CRD''). The Web CRD is a Web-based system that provides broker-dealers and their associated person with ''one-stop filing'' with the Commission, FINRA and other self-regulatory organizations and regulators. The Web CRD is operated by FINRA and is used by participating regulators in connection with registering and licensing broker-dealers and their associated persons.

In connection with the arrangement with FINRA, all persons who are seeking registration with the Exchange or are currently registered with the Exchange, submit fingerprint cards or fingerprint results to FINRA for processing and/or submission to the Attorney General. The Attorney General provides FINRA with fingerprint processing results for persons seeking registration, and results are provided to the members. FINRA notifies the Exchange if the fingerprint results received by FINRA contain information indicating that the person is subject to a statutory disqualification. In such an instance, the Exchange reviews the fingerprint results to determine the possible existence of a statutory disqualification as defined in section 3(a)(39) of the Act, and takes appropriate action, if necessary, concerning eligibility or continued eligibility of the individual for employment or association with an Exchange member.

The Exchange advises its members and member applicants of any fees charged in connection with processing of fingerprints pursuant to this Plan. The Exchange will file any such Exchange member fees with the Commission pursuant to section 19(b) of the Act.

Copies of fingerprint reports received from the Attorney General with respect to fingerprints submitted by the Exchange pursuant to this Plan will be maintained by the Exchange in accordance with the Exchange's record retention obligations under the Act. Any maintenance of fingerprint records by the Exchange shall be for the Exchange's own administrative purposes, and the Exchange is not undertaking to maintain fingerprint records on behalf of Exchange members pursuant to Rule 17f–2(d)(2).

The Exchange shall not be liable for losses or damages of any kind in connection with the fingerprint services, as a result of a failure to properly follow the procedures described above, or as a result of lost or delayed fingerprint cards, fingerprint records, or fingerprint processing results, or as a result of any action by the Exchange or the Exchange's failure to take action in connection with this Plan.

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[3] 17 CFR 200.30–3(a)(17)(iii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57623; File No. SR–BSE–2008–05]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 5, To Amend the Rules of the Boston Options Exchange Related To Obvious Error Procedures

April 4, 2008.

I. Introduction

On January 29, 2008, 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 to amend the Boston Options Exchange (''BOX'') Rules related to Obvious Error procedures. On February 21, 2008, the Exchange filed Amendment No. 1 to the proposal. On February 22, 2008, the Exchange submitted Amendment Nos. 2, 3, and 4, and withdrew Amendment Nos. 1, 2, and 3 to the proposal. On February 26, 2008, the exchange withdrew Amendment No. 4 and submitted Amendment No. 5 to the proposal.[3] The proposed rule change, as modified by Amendment No. 5, was published for comment in the **Federal Register** on March 3, 2008.[4] The Commission received no comment letters on the proposal. This order approves the proposed rule change, as modified by Amendment No. 5.

II. Description of the Proposed Rule Change

BOX has an established process whereby, in the event that a suspected Obvious Error has occurred during trading on the BOX market, a request for review may be made by one or both of the parties involved. To request a review of a suspected Obvious Error under current BOX rules, one or both of the parties involved must notify the Market Regulation Center (''MRC'') of the existence of a suspected erroneous transaction. The MRC would then initiate a review process. If the MRC determines that the transaction does in fact represent an Obvious Error, the transaction would either be adjusted or

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 5 replaced and superseded the original filing and all previous amendments in their entirety.

[4] Securities Exchange Act Release No. 57383 (February 26, 2008), 73 FR 11452.

busted. Depending on the parties involved in the transaction, the adjustments would either be set according to pre-determined increments or by mutual agreement between the parties.

The proposed rule change would require that one or both parties contact the BOX Market Operations Center (''MOC''),[5] instead of the MRC, to request a review of a suspected erroneous transaction. The MOC would then be required to promptly notify the MRC, since the MRC would continue to be the body that makes adjust or bust decisions.

The proposed change also would provide an additional avenue of relief for non-BOX market makers, resulting in the Obvious Error Rules applying not only to BOX Market Makers, but also to market makers on other exchanges whose orders are designated with a market maker account type in the BOX Trading Host. Under current BOX Rules, only BOX Market Makers and non market maker Options Participants may request a review of a suspected erroneous transaction. Under the proposed rule change, non-BOX market makers also may request a review of a suspected erroneous transaction. Moreover, only BOX Market Makers involved in an erroneous transaction with another BOX Market Maker currently may avail themselves to the pre-determined obvious error Theoretical Price plus or minus adjustment levels. The proposed rule change would maintain and expand the choices available to a non-BOX market maker involved in an erroneous transaction. Specifically, a non-BOX market maker, like BOX Market Makers today, would have the choice of agreeing with the counter party to bust the transaction, agreeing to adjust to an agreed upon price for the transaction, or now having the transaction adjusted to the pre-determined levels.

Finally, the proposed rule change would establish an additional course of action if it is determined that an Obvious Error has occurred. The current BOX Rules allow for an adjustment in the transaction price to the pre-determined levels where both parties to the transaction are BOX Market Makers. If *at least* one party to the transaction is a market maker on BOX, the BOX rules call for the transaction to be busted, unless both parties agree to an adjustment price and notify the MRC. The proposed rule change would: (1) provide that the transaction would be busted absent an agreement to an adjusted price only when neither party is a market maker; and (2) allow the non market maker party to elect to have the transaction busted or the price adjusted to a pre-determined level, when one party to the transaction is *not* a market maker and the other party *is* a market maker.

III. Discussion

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[6] and, in particular, the requirements of Section 6(b) of the Act[7] and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[8] in that the proposal is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an ''obvious error'' may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an ''obvious error'' has occurred should be based on specific and objective criteria and subject to specific and objective procedures.

The Commission believes that the proposed rule change is based on specific and objective criteria and subject to specific and objective procedures. Specifically, expanding the application of BOX's Obvious Error rule to non-BOX market makers would extend the specific and objective criteria and procedures applicable to BOX Market Makers to non-BOX market makers. In addition, under the proposed rule change, an obviously erroneous transaction that is not busted would be adjusted to objective, pre-established numerical Obvious Error adjustment increments.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–BSE–2008–05), as modified by Amendment No. 5, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

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[5] This proposed rule change would also add the MOC to the definitions section of the BOX Rules. *See* Section 1 of Chapter I of the BOX Rules. The remainder of the changes to the definition section fall into two categories. The first is switching the current Sections 31 and 32 so that they are in alphabetical order. The second is, after inserting the MOC as a definition, renumbering the remaining definitions.

[6] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57610; File No. SR–CBOE–2008–14]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change To Establish a Solicitation Auction Mechanism and To Amend Its Automated Improvement Mechanism

April 3, 2008.

I. Introduction

On February 7, 2008, 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''),[1] and Rule 19b–4 thereunder,[2] a proposal to establish a new automated mechanism for auctioning larger-sized orders and to modify its existing automated improvement mechanism (''AIM'') to permit its use for the execution of complex orders. The proposed rule change was published for comment in the **Federal Register** on February 28, 2008.[3] The Commission received no comments regarding the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

Under CBOE Rules 6.45A, *Priority and Allocation of Equity Option Trades on the CBOE Hybrid System*, and 6.45B, *Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System*, order entry

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 57357 (February 20, 2008), 73 FR 10837.