

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

The subject matter of the Open Meeting scheduled for Wednesday, December 18, 2002 will be:

1. The Commission will consider whether to adopt exemptions for most standardized options from provisions of the Securities Act of 1933 and from the registration requirements of the Securities Exchange Act of 1934. The exemptions would ensure comparable regulatory treatment of standardized options and security futures products.

2. The Commission will consider proposing new rules and rule amendments to implement (a) the mandated electronic filing of reports required to be filed by officers, directors and principal security holders under section 16(a) of the Securities Exchange Act of 1934; and (b) Web site posting of such reports by issuers, both of which are required by section 16(a)(4) of the Exchange Act, as amended by section 403 of the Sarbanes-Oxley Act of 2002.

The subject matter of the Closed Meeting scheduled for Thursday, December 19, 2002 will be:

Formal orders of investigation;

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions; and

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: December 11, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-31657 Filed 12-12-02; 11:28 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46961; File No. SR-BSE-2002-19]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Solely Listed Issue Credit

December 6, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on November 1, 2002, the Boston Stock Exchange, Inc. ("BSE") submitted to 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 BSE. On December 3, 2002, the BSE filed Amendment No. 1 to the proposal with the Commission.<sup>3</sup> 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 BSE proposes to amend the portion of its Floor Operations Fee Schedule that pertains to solely listed issue credit.

The text of the proposed rule change is available at the Office of the Secretary, the BSE and the Commission.

#### 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 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 BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

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

<sup>3</sup> See letter from John A. Boese, Assistant Vice President, BSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 2, 2002 ("Amendment No. 1"), which replaced the original Form 19b-4 in its entirety. In Amendment No. 1, the BSE made technical corrections to Item 9 of the original Form 19b-4 and to the Transaction Fee Schedule provided in Exhibit 2.

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

##### 1. Purpose

The purpose of the proposed rule change is to amend the Floor Operations Fee Schedule to increase its Solely Listed Issue credit. The BSE seeks to increase from \$25 to \$50 per issue the monthly credit it offers its specialists for trading those issues that are only listed on the BSE ("Solely Listed Issues"). The BSE believes that its Solely Listed Issue program is an integral part of the products and services it offers its customers and proposes this increase as a way to assist in maintaining the program.

##### 2. Statutory Basis

The BSE believes the proposed rule change is consistent with section 6 of the Act<sup>4</sup> in general, and with section 6(b)(4) of the Act<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its issuers.

#### 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.

#### 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

Because the BSE believes that the proposal establishes or changes a due, fee, or other charge, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>6</sup> and subparagraph (f)(2) of Rule 19b-4<sup>7</sup> thereunder. 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 purposes of the Act.

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

#### 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 the BSE. All submissions should refer to File No. SR-BSE-2002-19 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-31589 Filed 12-13-02; 8:45 am]

BILLING CODE 8010-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46957; File No. SR-CBOE-2002-62]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Proposing to Amend Interpretation .01(b)(2) and .05(d)(ii) to CBOE Rule 5.3 Which Establish the Pricing Criteria for Securities that Underlie Options Traded on the Exchange

December 6, 2002.

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> notice is hereby given that on October 11, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and

III below, which Items have been prepared by the Exchange. 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

CBOE proposes to amend Interpretation .01(b)(2) and .05(d)(ii) to CBOE Rule 5.3, which establish the pricing criteria for securities that underlie options traded on the Exchange. The text of the proposed rule change follows. Additions are in *italics*. Deleted text is in [brackets].

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#### Chapter V—Securities Dealt In

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#### Criteria for Underlying Securities

##### Rule 5.3

(a) Underlying securities in respect of which put or call option contracts are approved for listing and trading on the Exchange must meet the following criteria:

(1) The security must be duly registered and

(i) Listed on a national securities exchange; or

(ii) Traded through the facilities of a national securities association and reported as a "national market system" ("NMS") security as set forth in Rule 11Aa3-1 under the Securities Exchange Act of 1934; and

(2) The security shall be characterized by a substantial number of outstanding shares which are widely held and actively traded.

(b) In addition, the Board of Directors shall from time to time establish guidelines to be considered by the Exchange in evaluating potential underlying securities for Exchange option transactions. There are, however, many relevant factors which must be considered in arriving at such a determination. The fact that a particular security may meet the guidelines established by the Board does not necessarily mean that it will be approved as an underlying security. Further, in exceptional circumstances an underlying security may be approved by the Exchange even though it does not meet all of the guidelines. The Exchange may also give consideration to maintaining diversity among various industries and issuers in selecting underlying securities.

. . . Interpretations and Policies:

.01 The Board of Directors has established guidelines to be considered

by the Exchange in evaluating potential underlying securities for Exchange option transactions. Absent exceptional circumstances with respect to Paragraphs (a)(1) or (2), or (b)(1) or (2) listed below, at the time the Exchange selects an underlying security for Exchange option transactions, the following guidelines with respect to the issuer shall be met.

(a) Guidelines applicable to the issuer of the security are:

(1) There are a minimum of 7,000,000 shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Securities Exchange Act of 1934.

(2) There are a minimum of 2,000 holders of the underlying security.

(3) The issuer is in compliance with any applicable requirements of the Securities Exchange Act of 1934.

(b) Guidelines applicable to the market for the security are:

(1) Trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve months.

(2) (A) *If the underlying security is a "covered security" as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the market price per share of the underlying security has been at least \$3.00 for the previous five consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation for listing and trading. For purposes of this Interpretation .01(b)(2)(A), the market price of such underlying security is measured by the closing price reported in the primary market in which the underlying security is traded.*

(B) *If the underlying security is not a "covered security", [T]he market price per share of the underlying security has been at least \$7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.*

.02-.04 No Change.

.05(a)-(c) No Change.

(d) In the case of a Restructuring transaction that satisfies either or both of the conditions of subparagraphs (a)(1) or (a)(2) above in which shares of a Restructure Security are sold in a public offering or pursuant to a rights distribution:

(i) The Exchange may assume the satisfaction of one or both of the requirements of paragraphs (a)(1) and

<sup>8</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.