

be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. 4-568 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

All submissions should refer to File No. 4-568. 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/other.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 changes 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, 100 F Street, NE., Washington, DC 20549-1090. 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 No. 4-568 and should be submitted on or before October 16, 2008.

## **II. Date of Effectiveness of the Proposed Minor Rule Violation Plan and Timing for Commission Action**

Pursuant to section 19d-1 of the Act and Rule 19d-1(c)(2) thereunder,<sup>7</sup> after October 16, 2008, the Commission may, by order, declare BATS Exchange's proposed Minor Rule Violation Plan effective if the plan is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the proposed Minor Rule Violation Plan,

File No. 4-568, and to the period of its effectiveness which the Commission deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of this Act.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-21616 Filed 9-15-08; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58445A; File No. SR-BSE-2008-43]

### **Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Transfer of Ownership of MX US 2, Inc.; Correction**

September 10, 2008.

In FR Doc. No. E8-20869, for Tuesday, September 9, 2008, beginning on page 52434, make the following correction. On page 52436, first column, the first full paragraph is revised to read as follows:

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>17</sup> However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.<sup>18</sup> The Exchange has requested that the Commission waive the 30-day operative delay.<sup>19</sup> The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because BSE has represented that the Instruments of Accession will be executed on August 29, 2008, and there is no reason to delay implementation of the changes to the BOX LLC Agreement pursuant to the Instruments of

<sup>8</sup> 17 CFR 200.30-3(a)(44).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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. The Commission has determined to waive the five-day pre-filing period in this case.

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>19</sup> See E-mail from Lisa J. Fall, General Counsel and Corporate Secretary, BOX, to Molly Kim, Special Counsel, Division of Trading and Markets, Commission, on August 29, 2008.

Accession. For these reasons, the Commission designates the proposal to be operative upon filing with the Commission.<sup>20</sup>

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

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-21485 Filed 9-15-08; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58499; File No. SR-NYSE-2008-58]

### **Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change To Make Permanent a Pilot Program Under Which the Exchange Excludes From Its Earnings Standard Gains or Losses From Extinguishment of Debt Prior to Maturity**

September 9, 2008.

#### **I. Introduction**

On July 22, 2008, the New York Stock Exchange LLC ("NYSE" 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 enable the Exchange to adjust the earnings of companies for purposes of the Exchange's pre-tax earnings standard by excluding gains or losses recognized in connection with the extinguishment of debt prior to its maturity. The proposed rule change was published for comment in the **Federal Register** on August 5, 2008.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### **II. Description of the Proposal**

The Exchange proposes to amend the earnings standard of section 102.01C(I) of the Exchange's Listed Company Manual ("Manual") to enable the Exchange to adjust the earnings of companies for purposes of its pre-tax earnings standard by excluding gains or losses recognized in connection with the extinguishment of debt prior to its maturity. The adjustment would relate

<sup>20</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<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. 58254 (July 30, 2008), 73 FR 45511.

<sup>7</sup> 15 U.S.C. 78s(d)(1) and 17 CFR 240.19d-1(c)(2).