

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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. Please include File Number SR-Amex-2006-17 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-Amex-2006-17. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. 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 Number SR-Amex-2006-17 and should be submitted on or before February 7, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-538 Filed 1-16-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55073 File No. SR-BSE-2006-48]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change To Implement a Quote Mitigation Plan

January 9, 2007.

I. Introduction

On November 15, 2006, 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 to add a Quote Mitigation Plan. The proposed rule change was published for comment in the **Federal Register** on November 27, 2006.³ The Commission received one comment letter on the proposed rule change.⁴ This order approves the proposed rule change.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 54779 (November 17, 2006), 71 FR 68655.

⁴ See letter to Nancy Morris, Secretary, Commission, from Christopher Nagy, Chair, SIFMA Options Committee ("SIFMA"), dated December 20, 2006. SIFMA supports BSE's quote mitigation proposal discussed herein and recommends its implementation on an industry-wide basis. Specifically, SIFMA believes that the adoption of an industry-wide, uniform "holdback timer" proposal, like the strategy approved by this order, would provide the most effective means of quote mitigation. SIFMA expressed concern that a lack of uniformity among quote mitigation strategies implemented by the various options exchanges may impose a burden on member firms and result in confusion among market participants. Additional concerns raised in SIFMA's December 20, 2006 comment letter relating to other proposed rule changes filed by the options exchanges will be more

II. Description of the Proposal

The purpose of the proposed rule change is to mitigate quote traffic and address quote capacity issues by, under certain circumstances, "bundling" quotes so that options data is submitted to the Options Price Reporting Authority ("OPRA") over short intervals rather than on a continuous basis. Specifically, BOX proposes to mitigate quotes in the following manner:

- BOX proposes to "let the market decide" which instruments would be considered to be "less interesting" by basing this determination on the open interest in contracts at the Options Clearing Corporation for each instrument. Those series with lower open interest are likely to be of less interest to options traders and investors. The precise threshold of open interest which will determine whether the broadcast of a series is subject to mitigation or not will vary according to the degree BOX is meeting its stated goals of reducing overall traffic. BOX anticipates that this threshold could be as high as 300 to 400 contracts, but that it will be no lower than 50 contracts. BOX does not propose to apply mitigation to instruments which have been listed for fewer than ten trading sessions, regardless of the open interest.
- BOX would "bundle" at intervals of up to 1,000 milliseconds (and no less than 200 milliseconds) any changes to its broadcast for those instruments which have fallen below the threshold in the previous point.
- BOX would use variable rates of "bundling" delays for the three different types of broadcast updates: changes in price, increases in quantity without a change in price, and decreases in quantity without a change in price. Under this proposal, changes in prices may be subject to less delay than changes to quantity at same price. For example, BOX may apply a "bundling interval" of 400 milliseconds to updates regarding a price change while using a figure of 1,000 milliseconds for updates concerning only a change in quantity at the same price. The appropriate mix will be determined by the relative success BOX is meeting in its overall goals of traffic reduction.

The Exchange does not propose to apply the above-described bundling to message traffic relating to price improvement auctions or NBBO exposure mechanisms, nor to trade reporting messages. Furthermore, no bundling of quotes is proposed for inbound orders and quotes which are sent to BOX by users. Instead,

fully addressed in any subsequent releases issued by the Commission.

messaging will be bundled only for outbound updates.

The Exchange believes this proposal is an optimal trade-off between costs and benefits and that it is fully compliant with its firm quote obligations. BOX has indicated that its target reduction in outbound peak traffic is 15% to 20% of what the traffic would have been had no mitigation been applied. Box has also represented that the reduction in overall traffic, as opposed to peaks, will be lower, but still significant, with a target of 8% to 10%.

III. Discussion

After careful review of the proposal and consideration of the comment letter, 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.⁵ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁶ which requires, among other things, that the rules of an 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.

The Commission believes that the Exchange's proposal to "bundle" quotes should reduce the volume of options quote traffic disseminated to OPRA and help to address capacity concerns on the Exchange. Because the contemplated delays in data transmission are very brief, the Commission does not believe that "bundling" quotes will adversely affect market transparency or negatively affect market participants or investors. Furthermore, the Commission believes that BOX's quote mitigation proposal is designed to provide the Exchange with a mechanism, that should reduce overall peak market data traffic with a relatively small impact on the quality of information available to options market users.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-BSE-2006-48), be, and hereby is approved.

⁵ In approving this proposed rule change the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

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.

[FR Doc. E7-526 Filed 1-16-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55062; File No. SR-CBOE-2006-88]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval to Proposed Rule Change To Codify a Fee Schedule for the Sale of Open and Close Volume Data on CBOE Listed Options by Market Data Express, LLC

January 8, 2007.

On November 3, 2006, 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 proposed rule change to codify a fee schedule for the sale of open and close volume data on CBOE listed options by Market Data Express, LLC ("MDX"), a wholly-owned subsidiary of CBOE. The proposed rule change was published for comment in the **Federal Register** on November 27, 2006.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

In the Notice, the Exchange represented that it creates volume data for each CBOE listed option that consists of opening buys and opening sells and closing buys and closing sells ("Open/Close Data"). CBOE further represented that MDX offers this Open/Close Data for sale to CBOE members and non-members and that the fees assessed by MDX for the Open/Close Data are set forth in the Price List on MDX's Web site. CBOE members and non-members are charged the same fees for the Open/Close Data.

Under the proposal, customers may purchase Open/Close Data on a subscription basis or by ad hoc request. Daily Open/Close Data covering all CBOE listed options⁴ would be

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 54771 (November 16, 2006), 71 FR 68657 (the "Notice").

⁴ Although the proposed rule change refers to Open/Close Data covering all CBOE listed securities, the CBOE confirmed that the Open/Close

available for purchase by subscribing to the Daily Update service at a cost of \$600 per month. Subscribers to the Daily Update service would receive a daily data file via download from MDX's Web site. Historical Open/Close Data covering all CBOE listed options may be purchased on an ad hoc request basis and is delivered via DVD. The charge for Historical Open/Close Data covering all CBOE listed options would be \$7,200 per year for requests for one to four years of data. Requests for five or more years of Historical Open/Close Data would receive a 50% discount beginning with the fifth year of data (*i.e.*, MDX charges \$7,200 for each of the first four years of data and \$3,600 for year five and for each subsequent year of data). Alternatively, a customer may purchase Historical Open/Close Data on an individual CBOE listed option at a cost of \$4.50 per listed option per month. This data would be available via download from MDX's Web site. A 50% discount would be applied for requests for ten or more years of data, beginning with the tenth year of data.

The Commission has reviewed carefully the proposed rule change and 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, the requirements of Section 6(b)(4) of the Act,⁵ which requires, among other things, CBOE's rules be designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and issuers and other persons using its facilities.⁶

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2006-88) is hereby approved.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-540 Filed 1-16-07; 8:45 am]

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Data is available solely for all CBOE listed options. Telephone conversation between Jaime Galvan, Assistant Secretary, CBOE and David Michehl, Special Counsel, Division of Market Regulation, Commission on January 8, 2007.

⁵ 15 U.S.C. 78f(b)(4).

⁶ In approving this proposed rule change the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).