budget expenses for 2004. After its review, the Commission determined that the PCAOB's 2004 budget and annual accounting support fee are consistent with section 109 of the Act. Accordingly,

It is ordered, pursuant to section 109 of the act, that the PCAOB budget and annual accounting support fee for calendar year 2004 are approved.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–4272 Filed 2–25–04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49292; File No. SR–BSE–2004–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Proposing to Initiate a Pilot Program that Allows the Listing of Strike Prices at One-Point Intervals for Certain Stocks Trading under $20

February 20, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2004, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II 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

The BSE proposes to initiate a pilot program (''Pilot Program'') that will allow for the listing of options on selected stocks trading below $20 at one-point intervals. The text of the proposed rule change appears below. Additions are in *italics.*

* * * * *

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

[2] 17 CFR 240.19b–4.

RULES OF THE BOSTON STOCK EXCHANGE

RULES OF THE BOSTON OPTIONS EXCHANGE FACILITY

Trading of options contracts on BOX

Chapter IV Securities Traded on the Boston Options Exchange Facility

Sec. 6 Series of Options Contracts Open for Trading

(a)–(f) no change

The following rules are in effect until June 5, 2004

Supplementary Material to Section 6

.01 The interval between strike prices of series of options on individual stocks may be $2.50 or greater where the strike price is $25 or less, provided however, that BOX may not list $2.50 intervals below $20 (e.g. $12.50, $17.50) for any class included within the $1 Strike Price Pilot Program, as detailed below in Supplementary Material .02, if the addition of $2.50 intervals would cause the class to have strike price intervals that are $0.50 apart. Exceptions to the strike price intervals above are set forth in Supplementary Material .02 below.

.02 $1 Strike Price Pilot Program:

a. The interval between strike prices of series of options on individual stocks may be $1.00 or greater (''$1 Strike Prices'') provided the strike price is $20 or less, but not less than $3. The listing of $1 strike prices shall be limited to option classes overlying no more than five (5) individual stocks (the ''$1 Strike Price Pilot Program'') as specifically designated by BOXR. BOXR may list $1 Strike Prices on any other option classes if those classes are specifically designated by other national securities exchanges that employ a similar $1 Strike Price Pilot Program under their respective rules.

b. To be eligible for inclusion into the $1 Strike Price Pilot Program, an underlying security must close below $20 in the primary market on the previous trading day. After a security is added to the $1 Strike Price Pilot Program, BOXR may list $1 Strike Prices from $3 to $20 that are no more than $5 from the closing price of the underlying on the preceding day. For example, if the underlying security closes at $13, BOXR may list strike prices from $8 to $18. BOXR may not list series with $1 intervals within $0.50 of an existing $2.50 strike price (e.g. $12.50, $17.50) in the same series. Additionally, for an option class selected for the $1 Strike Price Pilot Program, BOXR may not list $1 Strike Prices on any series having greater than five (5) months until expiration.

c. A security shall remain in the $ 1 Strike Price Pilot Program until otherwise designated by BOXR. The $1 Strike Price Pilot Program shall expire on June 5, 2004.

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 III below. The BSE 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

The purpose of the proposed rule change is to amend a section of the Rules of the Boston Options Exchange (the ''BOX Rules'') relating to the interval between strike prices of series of options on individual stocks. Chapter IV, *Securities Traded on the Boston Options Exchange Facility,* Section 6, *Series of Contracts Open for Trading,* of the Box Rules establishes guidelines regarding the addition of series for trading on BOX. The BSE proposes to amend this section of the BOX Rules to implement a pilot program, which will operate until June 5, 2004, and which will allow Boston Options Exchange Regulation, LLC (''BOXR''), the wholly owned subsidiary of the BSE that has been delegated regulatory authority over BOX,[3] to list options on up to five underlying equities trading below $20 at one-point intervals and to list $1 strike prices on any equity option included in the $1 strike price pilot program of any other options exchange (''Pilot Program'').

Pilot Program: The BSE notes that stock prices in general have dropped over the past few years, with many listings suffering severe declines. As a result, there has been a proliferation of stocks trading below $20. Some of these stocks are among the most widely held and actively traded equity securities listed on the New York Stock Exchange, Inc., the American Stock Exchange LLC (''Amex''), and Nasdaq, including, for example, Cisco, Oracle, Lucent, JDS Uniphase, AT&T, and Motorola.

[3] *See* Securities Exchange Act Release No. 49065 (January 13, 2004) 69 FR 2768 (January 20, 2004).

Accordingly, the options overlying these stocks are among the most actively traded options.

When a stock underlying an option trades at a lower price, it requires a larger percentage gain in the price of the stock for an option to become in-the-money. For example, when a stock trades at $10 an investor that wants to purchase a slightly out-of-the-money call option would have to buy the $12.50 call. At these levels, the stock price would need to increase by 25% to reach in-the-money status. A 25% or higher gain in the price of the underlying stock is especially large given the lessened degree of volatility that has recently accompanied many stocks and options. Accordingly, BOX Participants have expressed an interest in listing additional strike prices on these classes so that they can provide their customers with greater flexibility in achieving their investment strategies. For this reason, the Exchange proposes to implement the proposed Pilot Program for BOX.

Pilot Program Eligibility: The BSE proposes to amend Chapter IV, Section 6 of the BOX Rules to allow BOXR to list options on selected stocks trading below $20 at one-point intervals, provided that the strike prices are $20 or less, but not less than $3. An option would become eligible for inclusion in the Pilot Program provided that the underlying stock closed below $20 in its primary market on the preceding trading day. Once the underlying stock is part of the Pilot Program, BOXR may continue to list $1 strike prices provided the underlying stock remains below $20. As described more fully below, although an option class will not be removed automatically from the Pilot Program if the underlying stock trades at or above $20, BOXR will not add $1 strike prices when the underlying stock closes above $20. Once the stock closes below $20, it will again be eligible for the addition of $1 strike prices. An underlying stock will remain in the Pilot Program until BOXR removes it from the Pilot Program. Options on stocks trading under $20 that are not included in the Pilot Program may continue to trade in $2.50 and $5.00 strike price intervals. Although BOXR may only select up to five individual stock options for its Pilot Program, BOXR will not be precluded from also listing at $1 strike price intervals equity options included in the $1 strike price programs of other option exchanges.

Procedure for Adding $1 Strike Price Intervals: Chapter IV, Section 6 of the Box Rules will be amended to set forth the standards regarding the addition of $1 strike price intervals. Under the Pilot Program, the closing price of the underlying stock serves as the reference point for determining which $1 strike prices BOXR may open for trading. To minimize the proliferation of options series, BOXR intends to restrict the number of $1 strike prices that may be added to those strikes that fall within a $5 range of the price of the underlying stock. BOXR will not add strike prices outside of the $5 range. For example, if the underlying stock trades at $6, BOXR could list $1 strike prices from $3 to $11, while if the underlying stock trades at $10, BOXR could list $1 strikes from $5 to $15. By restricting the number of strike prices that may be listed to a predetermined $5 range, BOXR believes it will be able to provide investors with more flexibility without burdening the Options Price Reporting Authority (''OPRA'') capacity by bringing up strike prices that are not reasonably related to the price of the underlying stock.

Currently, when an underlying stock trades below $25, BOXR may list strike prices with $2.50 intervals. For this reason, several classes may have $7.50, $12.50, and $17.50 strike prices. To further avoid the proliferation of series, BOXR does not intend to list $1 strike prices at levels that ''bracket'' existing $2.50 intervals (*e.g.*, $7 and $8 strikes around a $7.50 strike). Accordingly, BOXR does not intend to list $7, $8, $12, $13, $17, and $18 levels in an expiration month where there is a corresponding $2.50 level. As the $2.50 intervals are ''phased-out,'' as described below, BOXR will introduce the $1 levels that bracket the phased-out price. For example, when a $7.50 series expires, BOXR will replace it by issuing a new expiration month with $7 and $8 strike price intervals.

Procedures for Phasing Out $2.50 Strike Price Intervals: When an individual stock becomes a part of the Pilot Program, BOXR will begin to phase out the existing $2.50 strike price intervals for options on that stock in favor of the $1 strike price intervals. To phase-out the $2.50 strike price intervals, BOXR first will delist any $2.50 series for which there is no open interest. Second, BOXR will no longer add new expiration months at $2.50 strike price intervals below $20 when existing months expire. This will cause the $2.50 strike price intervals below $20 to be phased out when the farthest-out month with a $2.50 interval expires.

$1 Strikes for Longer Dated Options: BOXR will not list $1 strikes on any series of individual equity option classes that have greater than five months until expiration.

Procedures for Adding Expiration Months: Chapter IV, Section 6(e) of the BOX Rules will govern the addition of expiration months for $1 strike series. Pursuant to this section, BOXR generally opens up to four expiration months for each class upon the initial listing of an options class for trading. Thus, for options included in the Pilot Program, BOXR will list an additional expiration month upon expiration of the near-term month, provided that the underlying stock prices closes below $20 on Expiration Friday. If the underlying closes at or above $20 on its primary market on Expiration Friday, BOXR will not list an additional month of $1 strike price series until the stock again closes below $20.

Procedures for Delisting $1 Strike Price Intervals: At any time, BOXR may cease listing $1 strike prices on existing series by submitting a cessation notice to The Options Clearing Corporation (''OCC'').[4] As discussed above, if the underlying closes at or above $20 on its primary market on Expiration Friday, BOXR will not list any additional months with $1 strike prices until the stock subsequently closes below $20. If the underlying stock does not subsequently close below $20, thereby precluding the listing of additional strike prices and months, the existing $1 series eventually will expire. When the near-term month is the only series available for trading, BOXR may submit a cessation notice to OCC. Upon submission of that notice, the underlying stock would no longer count towards the five option classes available on BOX pursuant to the Pilot Program, thereby allowing BOXR to list options on an additional stock at $1 strike price intervals. Once BOXR submits the cessation notice it will not list any additional months pursuant to the Pilot Program for trading with strikes below $20, unless the underlying stock again closes below $20.[5]

OPRA Capacity: BOXR believes that OPRA has the capacity to accommodate the increase in the number of series that could be added pursuant to the Pilot Program. On a daily basis, the options exchanges use an average of less than 7,000 messages per second (''mps'') during peak periods, which is less than

[4] The reasons for submitting a cessation notice are as follows: (1) Expiration of available $1 strikes (*i.e.*, the underlying stock price remains at or above $20); (2) series proliferation concerns; and (3) delisting because of, among other things, low price, merger, or takeover. In any event, with prior notice to BOX Participants and customers, BOXR will continue to have the ability to cease trading any series that has become inactive and has no open interest.

[5] If the underlying stock trades below $20 after BOXR submits a cessation notice, BOXR could again list options on that stock at $1 strike prices provided BOXR included the class as one of its five allowable classes.

25% of the total system capacity of 32,000 mps. Furthermore, to date, the options exchanges have not exceeded 11,000 mps for any extended period of time. Therefore, the Exchange believes that implementing the Pilot Program would not have a negative impact on OPRA system capacity.

2. Statutory Basis

The BSE believes that the proposed rule change is consistent with section 6(b) of the Act[6] in general and furthers the objectives of section 6(b)(5)[7] in particular in that it is 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 protect investors and the public interest by granting the Exchange authority to implement a Pilot Program to list options under certain circumstances at one-point intervals.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4[9] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such 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.

Under Rule 19b–4(f)(6)(iii) of the Act,[10] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date so that the Exchange may remain competitive with other exchanges that currently have similar rules in effect. The proposed rule change is virtually identical to a CBOE pilot program (''CBOE Pilot'') that the Commission approved.[11] Notice of the CBOE Pilot was published for comment[12] and the Commission received one comment letter, which supported the CBOE's proposal. Accordingly, the Commission believes that the proposed rule change raises no new issues of regulatory concern. The Commission, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative period,[13] and, therefore, the proposal is effective and operative upon filing with the Commission.

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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–BSE–2004–01. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–2004–01 and should be submitted by March 18, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–4269 Filed 2–25–04; 8:45 am]

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[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *See* Securities Exchange Act Release No. 47991 (June 5, 2003), 68 FR 35243 (June 12, 2003) (order approving File No. SR–CBOE–2001–60).

[12] *See* Securities Exchange Act Release No. 47753 (April 29, 2003), 68 FR 23784 (May 5, 2003).

[13] For purposes only of waiving the 30-day operative period for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49287; File No. SR–CBOE–2003–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to its Autoquote Triggered Ebook Execution System

February 19, 2004.

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 June 2, 2003, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. On September 10, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On December 29, 2003, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b-4.

[3] *See* letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 9, 2003.

[4] *See* letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 22, 2003.