

- There is a negotiated trade; or
- AEMI's auto-execution functionality is disabled.

In addition, the AEMI system would cancel a PPI order in three circumstances: (1) if the Specialist's or Registered Trader's best quote is withdrawn; (2) at the end of the day; or (3) there is a trading halt in the security.

If there were multiple PPI orders at the same price, the Specialist's PPI order would have priority, and any remaining size of an aggressing order would be executed against Registered Trader PPI orders in time priority. Intermarket sweep orders would be generated as necessary to clear any better-priced protected quotations at other trading centers before executing any PPI orders on the AEMI system.

To reflect the proposed rule change as described above, changes are proposed to the following AEMI rules: Rule 123–AEMI (Manner of Bidding and Offering), Rule 131–AEMI (Types of Orders), Rule 157–AEMI (Orders with More than One Broker), and Rule 170–AEMI (Registration and Functions of Specialists).

III. Summary of Comments and Amex Response

The Commission received one comment letter opposing the proposed rule change. The commenter argued that limiting the use of PPI Orders to Specialists and Registered Traders gives them “an unfair advantage” and thus is not consistent with Section 6(b) of the Act.

The commenter noted that the Specialist would have access to aggressing orders that could be price-improved but Floor Brokers would not. The commenter suggested that there would be many instances where Floor Brokers would be willing to provide price improvement but would not publicly display such interest in order to minimize any potential market impact. The commenter also suggested that PPI Orders could be misused to trade ahead of a Floor Broker's marketable orders instead of providing price improvement.

In its response to comments, Amex asserted that Floor Brokers are able to operate effectively and compete with Specialists and Registered Traders. For example, Amex pointed out that Floor Brokers have the exclusive use of certain order types on AEMI (e.g., percentage orders and reserve orders). Amex also emphasized that the use of PPI Orders would be monitored and policed electronically. Amex stated that its regulatory program would be able to detect possible unfair trading practices. Finally, Amex represented that it “is in

the process of developing the means by which other market participants, including floor brokers, would have the ability to systematically provide such price improvement.”⁸

IV. Discussion and Commission's Findings

After careful consideration, 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.⁹ In particular, the Commission finds that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the Exchange's rules 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 previously has found similar exchange rules to be consistent with the Act.¹¹ The Commission does not believe that the comment raises any issue that would preclude approval of the current proposal. As the Commission noted in the NYSE Hybrid Approval Order, Specialists today are permitted to offer price improvement to incoming orders in the auction market.¹² In this proposal, Amex seeks to provide its Specialists and Registered Traders with the ability to continue to offer price improvement in an electronic environment, but only if certain conditions are met. A Specialist's or Registered Trader's PPI order is eligible for execution only if its quote on the same side of the market is at or one tick away from the APQ. If the Specialist's or Registered Trader's quotation is at the APQ, a PPI order is eligible to execute up to the same size as its quotation; if it is one tick away from the APQ, the PPI order is eligible to execute up to one half the size of its quotation. A PPI order will be ignored if the Specialist's or Registered Trader's quotation is more than one tick away from the APQ. Thus, a Specialist's ability to benefit from the PPI order is directly correlated with the

extent to which it quotes competitive markets in size. The Commission notes, moreover, that Amex has represented that it “is in the process of developing the means by which other market participants, including floor brokers, would have the ability to systematically provide such price improvement.”¹³

The Commission further notes that a PPI order could execute only against a marketable incoming limit order. An incoming order that is not marketable against a PPI order (or a protected quotation) and that improves the APQ would be quoted as part of the new APQ.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR–Amex–2007–08), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7–5005 Filed 3–19–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55450; File No. SR–BSE–2007–11]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Existing Fee Schedules

March 13, 2007.

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 March 2, 2007, the Boston Stock Exchange, Inc. (“BSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the Exchange. The BSE has designated this proposal as one changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act ³ and Rule 19b–4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to

⁸ Amex Response Letter at 1.

⁹ 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).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See Securities Exchange Act Release Nos. 53539 (March 22, 2006), 71 FR 16353, 16381–82 (March 31, 2006) (“NYSE Hybrid Approval Order”) and 54511 (September 25, 2006), 71 FR 58460 (October 3, 2006).

¹² See 71 FR at 16382.

¹³ Amex Response Letter at 1.

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b–4(f)(2).

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 amending the Boston Equities Exchange ("BeX") fee schedule to include a transaction fee to be charged to BSE Members who request a BeX purchase & Sale Blotter reflecting the transaction information related to the execution of a single order, part of which was executed on BeX and part of which was executed at an away Trading Center. The text of the proposed rule change is available at <http://www.bostonstock.com>, at the BSE, and at the Commission's Public Reference Room.

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 Exchange 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 Exchange 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

On November 20, 2006, the BSE filed BSE-2006-44, a rule filing that amended the existing BSE fee schedule and established a fee schedule for the BeX, a facility of the Exchange. BSE-2006-44 resulted in, among other things, the deletion of all Transaction Fees, Electronic File Access and Processing Fees, and Floor Operation Fees from the BSE fee schedule. The Transaction Fees and Electronic File Access and Processing Fees that were deleted from the BSE fee schedule were transferred to the BeX fee schedule. The purpose of this proposed rule change is to amend the BeX fee schedule to include a transaction fee that was deleted from the BSE fee schedule but not transferred to the BeX fee schedule as a part of BSE-2006-44. Specifically, the BSE fee schedule contained a transaction fee titled "Floor Brokered non-BSE executions." The fee for Floor Brokered non-BSE executions was \$0.0005, or \$0.05 per 100 shares. BSE

Members were charged the Floor Brokered non-BSE execution fee when the Member requested that the information related to the execution of a single order, only a part of which had been executed on the BSE with the remaining portion executed at an away Trading Center, be reflected on a BSE Purchase & Sale Blotter rather than having only the portion executed at the BSE reflected on the BSE Purchase & Sale Blotter. In order to include the information related to the portion of an order executed at the Trading Center other than the BSE on a BSE Purchase & Sale Blotter, in other words, in order to consolidate the transaction information on a single report, the BSE performed the necessary back office operations on behalf of the BSE Member so the transaction information, including the information related to the portion of the order executed at an away Trading Center, would appear on a BSE Purchase & Sale Blotter reflecting the transaction information related to the execution of a single order, part of which was executed on BeX and part of which was executed at an away Trading Center. The fee would now be titled "Non-BeX executed trades" and would appear on the BeX fee schedule. As such, what had been known as the Floor Brokered non-BSE executions fee on the BSE schedule will now appear on the BeX fee schedule as the Non-BeX executed trades fee and will apply in the BeX environment.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act,⁶ in particular, in that it is designated to provide for the equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using Exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange 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 proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act⁷ and Rule 19b-4(f)(2) thereunder,⁸ because it establishes or changes a due, fee or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission.

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.

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. 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-BSE-2007-11 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-BSE-2007-11. 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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

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 also will be available for inspection and copying at the principal office of the BSE. 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-BSE-2007-11 and should be submitted on or before April 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-4976 Filed 3-19-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55471; File No. SR-NASD-2007-013]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Portfolio Margin

March 14, 2007.

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 12, 2007, the National Association of Securities Dealers, Inc. ("NASD") filed with 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 NASD. NASD has filed the proposed rule as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it effective upon filing with the Commission. 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

NASD proposes to amend NASD Rule 2520 to permit members to margin certain products according to a prescribed portfolio margin methodology on a pilot basis. NASD further proposes to amend NASD Rule 2860 to require that a disclosure statement and written acknowledgement for use with the proposed portfolio margin program be furnished to customers using a portfolio margin account.

Below is the text of the proposed rule change. Proposed new rule language is in italics.

* * * * *

2520. Margin Requirements

(a) through (f) No Change.

(g) *Portfolio Margin*

As an alternative to the "strategy-based" margin requirements set forth in paragraphs (a) through (f) of this Rule, members may elect to apply the portfolio margin requirements set forth in this paragraph (g) to all margin equity securities,¹ listed options, security futures products (as defined in Section 3(a)(56) of the Exchange Act), unlisted derivatives, warrants, index warrants and related instruments, provided that the requirements of paragraph (g)(6)(B)(i) of this Rule are met.

In addition, a member, provided that it is a Futures Commission Merchant ("FCM") and is either a clearing member of a futures clearing organization or has an affiliate that is a clearing member of a futures clearing organization, is permitted under this paragraph (g) to combine an eligible participant's related instruments as defined in paragraph (g)(2)(D), with listed index options, unlisted derivatives, options on exchange traded funds ("ETF"), index warrants and underlying instruments and compute a margin requirement for such combined products on a portfolio margin basis.

The portfolio margin provisions of this Rule shall not apply to Individual Retirement Accounts ("IRAs").

(1) *Monitoring.*—Members must monitor the risk of portfolio margin accounts and maintain a comprehensive written risk analysis methodology for assessing the potential risk to the member's capital over a specified range of possible market movements of positions maintained in such accounts. The risk analysis methodology shall specify the computations to be made,

the frequency of computations, the records to be reviewed and maintained, and the person(s) within the organization responsible for the risk function. This risk analysis methodology must be filed with NASD, or the member's designated examining authority ("DEA") if other than NASD, and submitted to the Commission prior to the implementation of portfolio margining. In performing the risk analysis of portfolio margin accounts required by this Rule, each member shall include in the written risk analysis methodology procedures and guidelines for:

(A) obtaining and reviewing the appropriate account documentation and financial information necessary for assessing the amount of credit to be extended to eligible participants;

(B) the determination, review and approval of credit limits to each eligible participant, and across all eligible participants, utilizing a portfolio margin account;

(C) monitoring credit risk exposure to the member from portfolio margin accounts, on both an intra-day and end of day basis, including the type, scope and frequency of reporting to senior management;

(D) the use of stress testing of portfolio margin accounts in order to monitor market risk exposure from individual accounts and in the aggregate;

(E) the regular review and testing of these risk analysis procedures by an independent unit such as internal audit or other comparable group;

(F) managing the impact of credit extended related to portfolio margin accounts on the member's overall risk exposure;

(G) the appropriate response by management when limits on credit extensions related to portfolio margin accounts have been exceeded; and

(H) determining the need to collect additional margin from a particular eligible participant, including whether that determination was based upon the creditworthiness of the participant and/or the risk of the eligible product.

Moreover, management must periodically review, in accordance with written procedures, the member's credit extension activities for consistency with these guidelines. Management must periodically determine if the data necessary to apply this paragraph (g) is accessible on a timely basis and information systems are available to adequately capture, monitor, analyze and report relevant data.

(2) *Definitions.*—For purposes of this paragraph (g), the following terms shall have the meanings specified below:

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).