

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57570; File No. SR-BSE-2008-14]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules Pertaining to the Terms of Index Option Contracts

March 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 12, 2008, 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 and II below, which Items have been prepared substantially by BSE. BSE filed the proposed rule change as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> 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

BSE proposes to amend Section 10 (Terms of Index Options Contracts) of Chapter XIV (Index Rules) of the Boston Options Exchange ("BOX") Rules to allow the listing of up to seven expiration months for options on certain broad-based indexes.

The text of the proposed rule change is available at BSE, the Commission's Public Reference Room, and <http://www.bse.com>.

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

In its filing with the Commission, BSE included statements concerning the

purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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 this rule filing is to amend the BOX Rules to allow the Exchange to list up to seven expiration months for broad based security index options upon which an exchange calculates a constant three-month volatility index. Currently, Section 10(a)(3) of Chapter XIV of the BOX Rules permits the Exchange to list only six expiration months in any index options at any one time.

Volatility products offer investors a unique set of tools for hedging. For example, the Chicago Board Options Exchange, Incorporated ("CBOE") Volatility Index ("VIX") options, first introduced in February 2006, have proven to be one of CBOE's most successful new products ever listed, currently averaging over 90,000 contracts traded per day. In a recent proposal, CBOE explained that it plans to introduce new volatility products and new volatility indexes in the near future, including the CBOE S&P 500 Three-Month Volatility Index ("VXV").<sup>5</sup> Similar to the VIX, the VXV is a measure of S&P 500 implied volatility, the volatility implied by S&P option prices. Instead of reflecting a constant one-month implied volatility period, however, VXV is designed to reflect the implied volatility of an option with a constant three months to expiration. Since there is only one day on which an option has exactly three months to expiration, VXV is calculated as a weighted average of options expiring immediately before and immediately after the three-month standard. Accordingly, an index calculator would need to use four consecutive expiration months in order to calculate a constant three-month volatility index.<sup>6</sup>

<sup>5</sup> CBOE calculates volatility indexes on other broad-based security indexes, such as the Dow Jones Industrial Average index ("DJX"), the Nasdaq-100 index ("NDX"), and the Russell 2000 index ("RUT"). CBOE may calculate a constant three-month volatility index on DJX, NDX, or RUT in the future. See Securities Exchange Act Release No. 56821 (November 20, 2007), 72 FR 66210 (November 27, 2007) (SR-CBOE-2007-82) ("CBOE Proposal").

<sup>6</sup> See *Id.* In CBOE Proposal, CBOE provides examples illustrating the need for a seventh month

Under the current application of Section 10 of Chapter XIV of the BOX Rules, the Exchange generally lists three consecutive near term months and three months on a quarterly expiration cycle. One of the three consecutive near term months is always a quarterly month; however, that near term contract month (which is also a quarterly month) is not included as part of the three months listed on a quarterly expiration cycle. Therefore, in order to permit the addition of four consecutive near term months under current Section 10 of Chapter XIV of the BOX Rules, the Exchange would only be able to list two months on a quarterly expiration cycle. Because of customer demand and other investment strategy reasons for having three months on a quarterly expiration cycle, the Exchange is seeking to increase, from six to seven, the number of expiration months for broad-based security index options upon which a constant three-month volatility index is calculated.

The proposed rule change will permit the Exchange to list up to seven expiration months at any one time for any broad-based security index option contract<sup>7</sup> upon which any exchange calculates a constant three-month volatility index. As a result, the Exchange, eight times a year, would be able to add an additional seventh expiration month in order to maintain four consecutive near term contract months.

The BSE has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (OPRA) have the necessary systems capacity to handle any additional quote and message traffic associated with the additional listing of a seventh contract month in order to maintain four consecutive near term contract months for those broad-based securities index options upon which a constant three-month volatility index is calculated.

###### 2. Statutory Basis

The Exchange believes the rule proposal is consistent with Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(5) of the Act,<sup>9</sup> in particular, because the proposed increase in the number of options contract expiration month series is limited to broad-based securities indexes upon which a constant three-month volatility index is calculated and

in order to maintain four consecutive near term contract months.

<sup>7</sup> See Section 10 of Chapter XIV of the BOX Rules. Examples of such broad-based securities indexes include the S&P 500, DJX, NDX and RUT.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>15</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.

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

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

because the additional quote and message traffic from any additional index option series is not expected to significantly impact current system capacity. In addition, the Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>10</sup> in general, and with Section 6(b)(5) of the Act,<sup>11</sup> in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, 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.

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

BSE 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*

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) may not become operative prior to 30 days after the date of filing, unless the Commission designates a shorter time if such action is consistent with the protection of investors and the public interest.<sup>14</sup> The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that

waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that other self-regulatory organizations recently adopted substantially similar rule changes that were effective upon filing,<sup>15</sup> and that this filing raises no new regulatory issues.

The Commission notes the Exchange's representations that it possesses the necessary systems capacity to handle the additional traffic associated with the additional listing of a seventh contract month in order to maintain four consecutive near term contract months for those broad-based security index options upon which the Exchange calculates a constant three-month volatility index. The Commission hereby grants the Exchange's request and designates the proposal as operative upon filing.<sup>16</sup>

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](mailto:rule-comments@sec.gov). Please include File No. SR-BSE-2008-14 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-2008-14. 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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-2008-14 and should be submitted on or before April 23, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-57568; File No. SR-CBOE-2008-32]

#### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Off-Floor DPMs**

March 26, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 24, 2008, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the

<sup>10</sup> 15 U.S.C. 78f.

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. BSE has complied with this requirement.

<sup>15</sup> See Securities Exchange Act Release Nos. 57284 (February 7, 2008), 73 FR 8387 (February 13, 2008) (SR-NYSEArca-2008-16); 57104 (January 4, 2008), 73 FR 2070 (January 11, 2008) (SR-ISE-2007-113); 57449 (March 7, 2008), (SR-Amex-2008-13).

<sup>16</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>17</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.