

Those who engage in contingent trades can benefit the market as a whole by studying the relationships between the prices of such securities and executing contingent trades when they believe such relationships are out of line with what they believe to be fair value.

Contingent trades therefore are one example of a wide variety of trades that contribute to the efficient functioning of the securities markets and the price discovery process. The Commission believes that qualified contingent trades potentially could become too risky and costly to be employed successfully if they were required to meet the trade-through provisions of Rule 611. Absent an exemption, participants in contingent trades often would need to use the Rule's intermarket sweep order exception and route orders to execute against protected quotations with better prices than an NMS stock component of the contingent trade. Any executions of these routed orders could throw the participants "out of hedge" and necessitate additional transactions in an attempt to correct the imbalance. As a practical matter, the difficulty of maintaining a hedge, and the risk of falling out of hedge, could dissuade participants from engaging in contingent trades, or at least raise the cost of such trades. The elimination or reduction of this trading strategy potentially could remove liquidity from the market. The Commission therefore has determined to exempt qualified exempted trades from Rule 611.

To minimize the effect of an exemption on the objectives of Rule 611, the exemption is narrowly drawn to encompass only those trades most in need of relief to remain part of a viable trading strategy and where execution of the NMS stock component at a trade-through price is reasonably necessary to effect the contingent trade. In particular, elements (1) through (6) of the exemption, as set forth above, require a close connection between any Exempted NMS Stock Transaction and the other components of a qualified contingent trade. This close connection should both significantly limit the number of Exempted NMS Stock Transactions and help assure that the exemption applies only to those trades most in need of flexibility to be executed efficiently. For example, the execution of one component of the transaction must be contingent upon the execution of all other components at or near the same time, and the Exempted NMS Stock Transaction must be fully hedged (without regard to any prior existing position) as a result of the other

components of the contingent trade.<sup>23</sup> In addition, there must be a specified relationship between the instruments involved in the component orders. The component orders must bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or since cancelled.<sup>24</sup> The exemption does not apply to contingent trades, such as statistical arbitrage transactions, if their components do not involve instruments with a specified relationship. Finally, the Exempted NMS Stock Transaction must be of block-size, involving at least 10,000 shares or having a market value of at least \$200,000. This element further limits the exemption to those transactions where an exemption is likely to be most needed to facilitate the trading strategies of informed customers.

Accordingly, the exemption should provide appropriate relief in those circumstances where compliance with Rule 611 could be most difficult as a practical matter, but also is limited to a small number of transactions that should not unduly undermine the objectives of Rule 611.<sup>25</sup> In this regard, the Commission notes that the exception is premised on an expectation that qualified contingent trades will continue to be used for essentially the same valid trading purposes as they are currently and as described in the SIA Exemption Request. A material change in the nature or frequency of such trades could cause the Commission to reconsider the terms of the exemption.

For the foregoing reasons, the Commission finds that granting an exemption from Rule 611 for qualified contingent trades, as defined above, is necessary and appropriate in the public interest, and is consistent with the protection of investors.

<sup>23</sup> The requirement that an Exempted NMS Stock Transaction be fully hedged should significantly limit the scope of the exemption. For example, a contingent trade would not qualify for the exemption if an NMS stock transaction was the purchase or sale of 50,000 shares, and the only other component was the purchase or sale of a small quantity of options on the NMS stock. A trading center may demonstrate that an Exempted NMS Stock Transaction is fully hedged under the circumstances based on the use of reasonable risk-valuation methodologies.

<sup>24</sup> Transactions involving cancelled mergers would be qualified contingent trades only to the extent that they involve the unwinding of a pre-existing position in the merger participants' shares.

<sup>25</sup> See SIA Exemption Request at 5–6 (representing that the number of qualified contingent trades is small in comparison to the overall number of trades executed in NMS stocks and, therefore, the overall number of possible exempted trade-throughs is similarly small).

#### IV. Conclusion

*It is hereby ordered*, pursuant to Rule 611(d) of Regulation NMS, that each NMS stock component of qualified contingent trades, as defined above, shall be exempt from Rule 611(a) of Regulation NMS.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>26</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6–14806 Filed 9–6–06; 8:45 am]

BILLING CODE 8010–01–P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54386; File No. SR–Amex–2006–75]

#### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program That Increases Position and Exercise Limits for Equity Options and Options on the Nasdaq-100 Tracking Stock

August 30, 2006.

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> notice is hereby given that on August 15, 2006, the American Stock Exchange LLC ("Amex" 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 by the Amex. The Exchange has filed the proposal as a "non-controversial" 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

The Exchange seeks a six-month extension of its pilot program increasing the standard position and exercise limits for options on the QQQQ and equity option classes traded on the Exchange ("Pilot Program"). The text of the proposed rule change is available on the Amex's Web site (<http://>

<sup>26</sup> 17 CFR 200.30–3(a)(82).

<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).

www.amex.com), at the Amex's principal office, 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 Amex 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

The Exchange is requesting to extend its current Pilot Program increasing the

standard position and exercise limits for options on the QQQQ and equity option classes traded on the Exchange for a time period of six months from September 1, 2006, through and including March 1, 2007.

In March 2005, the Exchange established the Pilot Program for a six-month period.<sup>5</sup> Under the Pilot Program, position and exercise limits for options on the QQQQ and equity options classes traded on the Exchange were increased to the following levels:

Current equity option contract limit <sup>6</sup>	Pilot program equity option contract limit
13,500	25,000
22,500	50,000
231,500	75,000
60,000	200,000
75,000	250,000
Current QQQQ option contract limit	Pilot program QQQQ option contract limit
300,000	900,000

<sup>6</sup> Except when the Pilot Program is in effect.

The standard position limits were last increased on December 31, 1998.<sup>7</sup> Since that time there has been a steady increase in the number of accounts that: (a) Approach the position limit; (b) exceed the position limit; and (c) are granted an exemption to the standard limit. Several member firms have petitioned the options exchanges to either eliminate position limits, or in lieu of total elimination, increase the current levels and expand the available hedge exemptions. A review of available data indicates that the majority of accounts that maintain sizable positions are in those option classes subject to the 60,000 and 75,000 tier limits. There also has been an increase in the number of accounts that maintain sizable positions in the lower three tiers. In addition, overall volume in the options market has continually increased over the past five years. The Exchange believes that the increase in options volume and lack of evidence of market manipulation occurrences over the past twenty years justifies the proposed increases in the position and exercise limits.

The Exchange has not encountered any problems or difficulties relating to the Pilot Program since its inception. The instant proposed rule change makes no substantive change to the Pilot Program other than to extend it for six months through and including March 1, 2007.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>8</sup> in general and furthers the objective of Section 6(b)(5) of the Act<sup>9</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange believes that the proposed rule change would impose no 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

No written comments were solicited or received by the Exchange on this proposal.

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

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after

<sup>5</sup> See Securities Exchange Act Release No. 51316 (March 3, 2005), 70 FR 12251 (March 11, 2005) (notice of filing and immediate effectiveness of File No. SR-Amex-2005-029). The Pilot Program was extended twice and is due to expire on September 1, 2006. See Securities Exchange Act Release Nos. 53349 (February 22, 2006), 71 FR 10571 (March 1, 2006) (notice of filing and immediate effectiveness

of File No. SR-Amex-2006-07); and 52260 (August 15, 2005), 70 FR 48991 (August 22, 2005) (notice of filing and immediate effectiveness of File No. SR-Amex-2005-082). Telephone conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and Theodore S. Venuti, Attorney, Division of Market Regulation, Commission, on August 16, 2006.

<sup>7</sup> See Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (File No. SR-Amex-98-22) (approval of increase in position limits and exercise limits).

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

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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

the date of filing.<sup>12</sup> However, Rule 19b-4(f)(6)(iii)<sup>13</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange provided the Commission with written notice of its intent to file this proposed rule change at least five business days prior to the date of filing the proposed rule change. In addition, the Exchange has requested that the Commission waive the 30-day pre-operative delay. The Commission believes that waiving the 30-day pre-operative delay is consistent with the protection of investors and in the public interest because it will allow the Pilot Program to continue uninterrupted.<sup>14</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 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-Amex-2006-75 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 No. SR-Amex-2006-75. 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 such filing will also be available for inspection and copying at the principal office of the Amex. 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. SR-Amex-2006-75 and should be submitted on or before September 28, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-14794 Filed 9-6-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54388; File No. SR-BSE-2006-32]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Its Boston Options Exchange Trading Rules Regarding the Extension of a Pilot Program That Increases the Standard Position and Exercise Limits for Certain Options Traded

August 30, 2006.

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> notice is hereby given that on August 18, 2006, 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 by the BSE. The Exchange has filed the proposal as a "non-controversial" 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

The BSE proposes to amend the rules of the Boston Options Exchange ("BOX"), an options trading facility of the BSE, to extend its current pilot program to increase the standard position and exercise limits for equity option contracts and options on the Nasdaq-100 Index Tracking Stock ("QQQQ") ("Pilot Program"). The text of the proposed rule change is available on the BSE's Web site (<http://www.bostonstock.com>), at the BSE's principal office, 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 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 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

The Pilot Program provides for an increase to the standard position and exercise limits for equity option contracts and for options on QQQQs for a six-month period.<sup>5</sup> Specifically, the Pilot Program increased the applicable position and exercise limits for equity

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

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

<sup>5</sup> The Pilot Program, which commenced on March 3, 2005, was extended on August 15, 2005 and February 22, 2006, and is set to expire on September 1, 2006. See Securities Exchange Act Release Nos. 51317 (March 3, 2005), 70 FR 12254 (March 11, 2005) (notice of filing and immediate effectiveness of File No. SR-BSE-2005-10) ("Pilot Program Notice"); 52264 (August 15, 2005), 70 FR 48992 (August 22, 2005) (notice of filing and immediate effectiveness of File No. SR-BSE-2005-37, which extended the Pilot Program); and 53347 (February 22, 2006), 71 FR 10573 (March 1, 2006) (notice of filing and immediate effectiveness of File No. SR-BSE-2006-07, which extended the Pilot Program).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> *Id.*

<sup>14</sup> For purposes only of waiving the pre-operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<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.