

*sentence means, in addition to the transaction that would be priced lower than superior priced bid(s) or higher than superior priced offer(s) of another Participant(s), those one or more transactions priced at such superior priced bid(s) or offer(s).*

The ITSOC provided the following example that demonstrates the functioning of clause (i) in subsection G, utilizing the CHX as the sending Participant:

a. CHX Receives Order: Buy 2000 at-the-market. Member handling execution of order determines to complete order at 45.56, necessitating satisfaction of superior priced offers on other Participant markets.

NBBO: N—45.50, 45.53; B—5x2.

Mkt	Bid	Offer	Size
B .....	45.30	45.53	1x2
T .....	45.30	45.54	3x3
N .....	45.50	45.55	5x5
X .....	45.25	45.59	2x5
P .....	45.20	45.60	1x1
M .....	45.40	45.65	1x1

b. CHX Executions: Customer buying/member selling as principal 2000 shares: 200 at 45.53; 300 at 45.54; 500 at 45.55; 1000 at 45.56.

c. CHX Computer Generated Commitments: Member buying to partially off-set sales on CHX: M to B—Buy—200 at 45.53; M to T—Buy—300 at 45.54; M to N—Buy—500 at 45.55.

#### A. Governing or Constituent Documents

Not applicable.

#### B. Implementation of Amendment

The Participants have manifested their approval of the proposed amendment to the Plan by means of their execution of the proposed amendments. The proposed amendment would become effective upon the Commission's approval of the amendment.

#### C. Development and Implementation Phases

Not applicable.

#### D. Analysis of Impact on Competition

The Participants believe that the proposed amendment does not impose any burden on competition.

#### E. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

Not applicable.

#### F. Approval by Sponsors in Accordance with Plan

Under section 4(c) of the restated ITS Plan, the requisite approval of the

amendment is achieved by execution of the amendment on behalf of each ITS Participant and by Commission approval. The amendment is so executed.

#### G. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

### II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Plan amendment 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. 4–208 on the subject line.

#### Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File No. 4–208. 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 Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan amendment 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 ITS. 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. 4–208 and should be submitted on or before June 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51734; File No. SR–BSE–2005–13]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Its Membership Dues Fee

May 24, 2005.

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 April 29, 2005, the Boston Stock Exchange (“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 prepared by the Exchange. On May 12, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend its Membership Dues fee. The text of the proposed rule change is available on the BSE's Web site (<http://www.bostonstock.com>), at the BSE's Office of the Secretary, 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

<sup>4</sup> 17 CFR 200.30–3(a)(27).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> Amendment No. 1 added a sentence to clarify the purpose for the fee change. The effective date of the original proposed rule change is April 29, 2005, and the effective date of the amendment is May 12, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on May 12, 2005, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

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 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 BSE proposes to amend its Membership and Other Fees fee schedule by increasing its Membership Dues fee from \$750 per quarter to \$1,000 per quarter. These fees will be used to fund the ongoing administration of Membership Services. This change will also better reflect the current value of a seat on the Boston Stock Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

*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.

*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 proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>7</sup> because it establishes or changes a due, fee, or other charge imposed by the BSE. 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.<sup>8</sup>

**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](mailto:rule-comments@sec.gov). Please include File Number SR-BSE-2005-13 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-BSE-2005-13. 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 offices 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-2005-13 and should be submitted on or before June 27, 2005.

<sup>8</sup> See *supra* note 3.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51746; File No. SR-CBOE-2005-32]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Relating to Remote Market-Maker Transaction Fees**

May 26, 2005.

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 April 20, 2005, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 prepared by the CBOE. On May 18, 2005, the CBOE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CBOE under Section 19(b)(3)(A)(ii) of the Act,<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its Fees Schedule to (i) establish transaction fees for Remote Market-Makers ("RMMs"), (ii) amend its Designated Primary Market-Maker ("DPM") and Electronic DPM ("e-DPM") fixed annual fee program to

<sup>9</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> In Amendment No. 1, the Exchange: (1) clarified how the fixed annual fee alternative for DPMs and e-DPMs would be applied when an entity that has elected the fixed annual fee alternative merges or combines operations with an entity that has not elected the fixed annual fee alternative; and (2) revised the date of the Fees Schedule.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).