

completion of the Options Relocation, the 86 Trinity Rules—including Amex Rule 0—would no longer be operative and would be rescinded by the Exchange.

### III. Discussion

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>29</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>30</sup> which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, 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 also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,<sup>31</sup> which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Commission notes that the proposed rules for the new NYSE Alternext market relating to membership, member firm conduct, and equities trading are substantially similar to existing NYSE rules, which have been previously subject to notice and comment and, where appropriate, approved by the Commission.<sup>32</sup>

This approval is based on the Commission's understanding that the equity trading system of NYSE Alternext will not trade any securities that are traded on NYSE. If in the future NYSE Alternext wishes to trade any security that is also traded on NYSE, NYSE Alternext must first file with the Commission a proposed rule change pursuant to Section 19(b)(1) of the Act.

All Amex members will, upon the closing of the Mergers, be approved as members of NYSE Alternext. However, since the new NYSE Alternext membership qualification rules are not

identical to the current Amex rules, the Exchange has proposed a six-month grace period for members to meet the new requirements and for members to take any necessary examinations. The Commission believes this is a reasonable accommodation for existing members of the Exchange that meet the current membership requirements but which might not immediately be able to satisfy the new membership requirements.

Finally, the Commission believes that the transitional rules proposed by the Exchange are consistent with the Act. They appear reasonably designed to promote an orderly transition by Amex members from the 86 Trinity Trading Systems to the NYSE Alternext Trading Systems.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>33</sup> that the proposed rule change (SR-Amex-2008-63) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>34</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58687; File No. SR-BSE-2008-42]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change Relating to the Appointment of Market Makers on the Boston Options Exchange Facility

September 30, 2008.

On August 19, 2008, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to modify the rules of the Boston Options Exchange Group, LLC ("BOX") to: (i) clarify that a Market Maker seeking to withdraw from a particular appointment will be required to provide BOX with at least three business days' written notice of such withdrawal regardless of how long the Market Maker held such appointment, by

removing conflicting language in BOX Rule 4(f) of Chapter VI that requires Market Makers to maintain active markets in all classes in which the Market Maker is appointed for a period of at least six months; and (ii) revise the formatting of Supplementary Material to Chapter VI, Section 5(c)(ii) of the BOX rules.

The proposed rule change was published for comment in the **Federal Register** on August 28, 2008.<sup>3</sup> The Commission received no comments on the proposal.

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<sup>4</sup> and, in particular, the requirements of Section 6 of the Act<sup>5</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> in that the proposal is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposed rule change will eliminate ambiguity within BOX's rules and provide greater clarity concerning Market Maker appointments and requests to withdraw from such appointments.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-BSE-2008-42) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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near future a proposal to adopt Disciplinary Rule 478T, which would govern the temporary disciplinary procedures applicable to certain legacy disciplinary proceedings.

<sup>29</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>30</sup> 15 U.S.C. 78f(b)(5).

<sup>31</sup> 15 U.S.C. 78f(b)(8).

<sup>32</sup> See Hybrid Market Approval Order, *supra* note 25.

<sup>33</sup> 15 U.S.C. 78s(b)(2).

<sup>34</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> See Securities Exchange Act Release No. 58408 (August 22, 2008), 73 FR 50845.

<sup>4</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).