

Act<sup>8</sup> to modify the proposed access fee or the Temporary Membership status under Rule 3.19.02 is terminated. Accordingly, the Exchange may further adjust the proposed access fee in the future if the Exchange determines that it would be appropriate to do so taking into consideration lease rates for transferable CBOE memberships prevailing at that time.

The procedural provisions of the CBOE Fee Schedule related to the assessment of the proposed access fee are not proposed to be changed and will remain the same as the current procedural provisions regarding the assessment of the current access fee.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of section 6(b)(4) of the Act,<sup>10</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among persons using its facilities.

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

CBOE 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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder. 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 Number SR-CBOE-2008-25 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-CBOE-2008-25. 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, 100 F Street, NE., Washington, DC 20549, 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 the Exchange. 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-CBOE-2008-25 and should be submitted on or before March 28, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57415; File No. SR-Amex-2008-16]

### Self-Regulatory Organizations; American Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Permanent Two Pilot Programs That Increase Position and Exercise Limits on Equity Options

March 3, 2008.

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 February 29, 2008, the American Stock Exchange, LLC ("Exchange" or "Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change 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 to make permanent two pilot programs that increase standard position and exercise limits for equity option classes traded on the Exchange. The text of the proposed rule change is available on the Exchange's Web site (<http://www.amex.com>), at the Exchange's principal office, and at the Commission's Public Reference Room.

<sup>13</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)(iii).

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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

## 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

The Exchange is seeking to make permanent two pilot programs that increase position and exercise limits for equity options. The Exchange proposes to amend Rule 904 to permanently establish the increased limits of the two pilot programs.

The first pilot program ("Rule 904 Pilot Program"), which commenced in March 2005<sup>5</sup> and was adopted by all the options exchanges, increased position and exercise limits for options on the QQQQ and equity options classes traded on the Exchange.

The second pilot program, which commenced in January 2007, increased the position and exercise limits for options on the iShares® Russell 2000® Index Fund ("IWM") ("IWM Option Pilot Program") from 250,000 contracts to 500,000 contracts.<sup>6</sup>

<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 five times and is due to expire on March 1, 2008. See Securities Exchange Act Release Nos. 56262 (August 15, 2007), 72 FR 47089 (August 22, 2007) (SR-Amex-2007-86); 55226 (February 1, 2007), 72 FR 6300 (February 9, 2007) (SR-Amex-2007-15); 54386 (August 30, 2006), 71 FR 52831 (September 7, 2006) (SR-Amex-2006-75); 53349 (February 22, 2006), 71 FR 10571 (March 1, 2006) (SR-Amex-2006-07); and 52260 (August 15, 2005), 70 FR 48991 (August 22, 2005) (SR-Amex-2005-082).

<sup>6</sup> The IWM Option Pilot Program doubles the position and exercise limits for IWM options under the Rule 904 Pilot Program. See Rule 904, Commentary .07. Absent both of these pilot programs, the standard position and exercise limit for IWM options is 75,000 option contracts. The proposal that established the IWM Option Pilot Program was effective upon filing. See Securities Exchange Act Release No. 55163 (January 24, 2007), 72 FR 4547 (January 31, 2007) (SR-Amex-2007-11). The IWM Option Pilot Program has been extended twice by the Commission, and expires on March 1, 2008. See Securities Exchange Act Release Nos. 57145 (January 14, 2008), 73 FR 3760 (January 22,

The standard position limits were last increased nine years ago, 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.

The Exchange has not encountered any problems or difficulties relating to the two pilot programs since their inception. To the best of the Exchange's knowledge, any violations of position or exercise limits under the pilot programs were immaterial. None of the violations were deemed to be the result of manipulative activities. The Exchange believes that the increase in options volume and lack of evidence of market manipulation since the last position limits increase, and throughout the duration of the two pilot programs, justifies making permanent the Rule 904 Pilot Program and IWM Option Pilot Program.

Furthermore, as the anniversary of listed options trading approaches its 35th year, the Exchange believes that the existing surveillance procedures and options positions reporting requirements at the Amex, at other options exchanges, and at the several clearing firms are capable of properly identifying unusual or illegal trading activity. The Exchange's procedures include daily monitoring of market movements via automated surveillance techniques to identify unusual activities in both options and their underlying securities.

Accordingly, the Exchange represents that its surveillance procedures and reporting procedures, in conjunction with the financial requirements and risk management review procedures already in place at the clearing firms and the Options Clearing Corporation, will serve to adequately address any concerns the Commission may have with respect to account(s) engaging in any manipulative schemes or assuming too high a level of risk exposure.

Moreover, the Exchange believes that the current financial requirements imposed by the Exchange and the Commission adequately address the concerns that a member or its customer may try to maintain an inordinately large unhedged position in an equity option.

Finally, the Exchange expects continued options volume growth as

2008) (SR-Amex-2008-01); and 56090 (July 18, 2007), 72 FR 40907 (July 25, 2007) (SR-Amex-2007-73).

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

opportunities for investors to participate in the options markets increase and evolve. The Exchange believes that the non-pilot position and exercise limits are restrictive, and returning to those limits will hamper fair and effective competition between the listed options markets and the over-the-counter markets. To date, there have been no adverse affects on the markets as a result of the past increases in the limits for equity options contracts.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>8</sup> in general and furthers the objectives of Section 6(b)(5)<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 will 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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4

<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).

thereunder.<sup>11</sup> The Exchange notes that the proposed rule change is based on a similar proposal recently approved by the Commission.<sup>12</sup> The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing.

The Rule 904 Pilot Program and the IWM Option Pilot Program were scheduled to expire on March 1, 2008. The Commission believes that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because it will allow the position and exercise limits to remain at consistent levels during the transition from the pilot programs to permanent status.<sup>13</sup> Therefore, the Commission designates the proposal to be operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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-Amex-2008-16 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission,

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of 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. The Exchange has fulfilled this requirement.

<sup>12</sup> See Securities Exchange Act Release No. 57352 (February 19, 2008), 73 FR 10076 (February 25, 2008) (order granting accelerated approval to SR-CBOE-2008-07).

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2008-16. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of the Exchange. 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-Amex-2008-16 and should be submitted on or before March 28, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57414; File No. SR-BSE-2008-12]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Permanent Two Pilot Programs That Increase Position and Exercise Limits on Equity Options

March 3, 2008.

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 February 29, 2008, the Boston Stock Exchange, Inc. (“Exchange” or “BSE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change 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 proposes to amend the Rules of the Boston Options Exchange (“BOX”). The Exchange is proposing to make permanent the position and exercise limits that the Exchange is currently applying to equity options on a pilot basis. The text of the rule proposal is available on the Exchange's Web site (<http://www.bostonstock.com>), at the offices of the Exchange, 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

The purpose of the proposed rule change is to make permanent two pilot programs that increase position and exercise limits for equity options. To permanently establish the two pilot programs, the Exchange proposes to amend Section 7 (Position Limits) and

<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)(iii).

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

<sup>14</sup> 17 CFR 200.30-3(a)(12).