

SECURITIES AND EXCHANGE COMMISSION
(Release No. 51031; File No. SR-BSE-2004-46)

January 12, 2005

Self-Regulatory Organizations; Boston Stock Exchange; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to its Instant Liquidity Access Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 20, 2004, the Boston Stock Exchange (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule as described in Items I and II below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Exchange as a non-controversial filing pursuant to Rule 19b-4(f)(6) under the Act.³ The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to amend its rules regarding Instant Liquidity Access.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)

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 amend a section of the Rules of the Board of Governors of the Boston Stock Exchange (“BSE Rules”) relating to Instant Liquidity Access (“ILA”). In Chapter XXXIII, Section 8, the Exchange sets forth rules related to the facilitation of orders through ILA. The Exchange is proposing that ILA orders for any account in which the same person is directly or indirectly interested may be entered without any time delay between the entry of orders in the book. Presently, there is a thirty-second restriction between the entry of orders for the same account.

When the ILA rules were originally drafted, the intention behind the thirty-second interval was to provide a measure of protection for Exchange specialists by preventing orders from being entered in a rapid fire manner. The Exchange has now had several months of experience with ILA, and both Exchange customers and specialists have requested that the thirty-second restriction be removed, so that ILA can be utilized for a larger percentage of orders. The concern about rapid fire orders has been addressed through systemic enhancements which, according to ILA rules, automatically cancel an ILA order if it can not be immediately executed. Accordingly, since the concerns behind the thirty-second restriction never materialized, and because systemic enhancements have obviated the need for such a restriction, the Exchange is seeking to abolish the limitation. Moreover, the Exchange believes that removing the thirty-second restriction will encourage more customers to utilize ILA, and thereby have their orders immediately executed, without the intervention of a specialist.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁴ in general, and Section 6(b)(5)⁵ in particular, in that it is designed 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 is not designed to permit unfair discrimination between customers, brokers, or dealers, or to regulate by virtue of any authority matters not related to the administration of the Exchange.

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 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

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 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

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

of investors and the public interest pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(6)⁷ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)⁸ normally does not become operative prior to thirty days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange seeks to have the proposed rule change become operative immediately so that it can eliminate a restriction in its rules that is no longer necessary.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change effective as of the date of this order.¹⁰ The Commission believes that the proposal could enhance the use of automatic executions on the Exchange and may result in more timely and orderly executions of orders.

At any time within 60 days of the filing of such 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.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ Id.

⁹ 17 CFR 240.19b-4(f)(6)(iii).

¹⁰ For purposes of only accelerating the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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 E-mail to rule-comments@sec.gov. Please include File Number SR-BSE-2004-46 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-2004-46. 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 also will be available for inspection and copying at the principal office 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-2004-46 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

J. Lynn Taylor
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).