

of the Satisfaction Order, the member that initiated the Trade-Through can either fill the Satisfaction Order, or cause the price of the transaction that constituted the Trade-Through to be corrected to a price at which a Trade-Through would not have occurred.⁶ While the Participants believe this process generally works well, the experience with the Options Intermarket Linkage ("Linkage") to date has led the Participants to agree to three changes related to Satisfaction Order processing.

In Joint Amendment No. 11, the Participants explain that currently, the Linkage Plan permits a Participant to send a Satisfaction Order for the full size of the customer order traded through, regardless of the size of the transaction that caused the Trade-Through (although the Participant receiving the Satisfaction Order that elects to execute it must limit its execution to the size of the Trade-Through).⁷ The amendment proposes that the size of the Satisfaction Order be limited to the lesser of the size of the customer order traded through and the size of the transaction that caused the Trade-Through.

In addition, the proposed amendment explains that the Linkage Plan currently permits a Participant that sends a Satisfaction Order through Linkage to reject the receiving Participant's fill within 30 seconds of being notified of the fill if the customer order that underlies the Satisfaction Order either has been executed on the sending exchange or has been canceled while the Satisfaction Order is being processed.⁸ However, if the order is filled or canceled, the Participants represent that there is currently no requirement in the Linkage Plan for the Participant that sent the Satisfaction Order to cancel it while it is still pending execution on another market. The Participants believe that this aspect of the Linkage Plan leads to the rejection of Satisfaction Order fills that may have been avoided had the Satisfaction Order been canceled. To address this issue, the amendment proposes a requirement that a Participant cancel a pending Satisfaction Order that it sent through Linkage as soon as practical if the underlying customer order is filled or canceled. The proposed amendment would clarify that the customer order must be canceled or executed prior to the receipt of the Satisfaction Order fill report.

Lastly, as noted above, a Participant can reject a Satisfaction Order fill if the

underlying customer order is executed or canceled while the Satisfaction Order is pending. However, the member that initiated the Satisfaction Order may, itself, trade against the customer order before the member receives a notice from the receiving Participant that the Satisfaction Order has been filled. In this case, the Participants believe that it would be inappropriate to reject the fill. Accordingly, the proposed amendment would provide that a Participant may not reject the fill of the Satisfaction Order when the underlying customer order has been executed against the member that initiated the Satisfaction Order.

III. Discussion

After careful consideration, the Commission finds that proposed Joint Amendment No. 11 to the Linkage Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment to the Linkage Plan is consistent with Section 11A of the Act⁹ and Rule 11Aa3-2 thereunder,¹⁰ in that it should clarify the Participants' obligations with respect to the sending of Satisfaction Orders and the receipt of Satisfaction Order fills, which should facilitate the fair and efficient processing of Satisfaction Orders through the Linkage in furtherance of the goals of a national market system.

IV. Conclusion

It is therefore ordered, pursuant to section 11A of the Act¹¹ and Rule 11Aa3-2 thereunder,¹² that the proposed Joint Amendment No. 11 is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-15685 Filed 7-9-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of July 5, 2004:

⁹ 15 U.S.C. 78k-1.

¹⁰ 17 CFR 240.11Aa3-2.

¹¹ See *supra* note 10.

¹² See *supra* note 11.

¹³ 17 CFR 200.30-3(a)(29).

A closed meeting will be held on Wednesday, July 7, 2004, at 3 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matter may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Campos, as duty officer, voted to consider the item listed for the closed meeting in a closed session and determined that no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Wednesday, July 7, 2004, will be:

Institution and settlement of an injunctive action;

Institution of an administrative proceeding of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: the Office of the Secretary at (202) 942-7070.

Dated: July 7, 2004.

Jonathan G. Katz,

Secretary.

[FR Doc. 04-15780 Filed 7-7-04; 4:46 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49963; File No. SR-Amex-2004-33]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the American Stock Exchange LLC Relating to the Handling of Satisfaction Orders Pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage

July 2, 2004.

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 May 13, 2004, the American Stock Exchange LLC ("Amex" or "Exchange") submitted to the Securities and Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁶ See Section 8(c)(ii)(A) of the Linkage Plan.

⁷ See Section 8(c)(ii)(B)(2) of the Linkage Plan.

⁸ See Section 8(c)(ii)(C) of the Linkage Plan.

Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and to grant accelerated approval to the proposed rule change.

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

The Amex is proposing to amend the requirements regarding how its members handle Satisfaction Orders³ pursuant to the Linkage Plan.

The text of the proposed rule change is available at the Exchange and at the Commission.

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 had received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 this filing is to implement a proposed rule change related to proposed Joint Amendment No. 11 to the Linkage Plan.⁴ That amendment to the Linkage Plan, together with this proposed rule change, will enhance the manner in which the Amex processes Satisfaction Orders following a Trade-Through. If the displayed price that is traded through represents a customer order, the Amex specialist or a member of another

³ A “Satisfaction Order” is defined as an order sent through the Option Intermarket Linkage (“Linkage”) to notify a Participant of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through. A “Trade-Through” is a transaction in an options series at a price that is inferior to the National Best Bid or Offer. See Sections 2(16)(c) and 2(29) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”), respectively.

⁴ See Securities Exchange Act Release No. 49691 (May 12, 2004), 69 FR 28954 (May 19, 2004) (File No. 4-429) (Notice of filing of Joint Amendment No. 11 to the Linkage Plan).

participant in the Linkage Plan (“Participant”)⁵ can send a Satisfaction Order requiring the member on the exchange who caused the Trade-Through to satisfy the customer order.⁶ Based on experience to date with the Linkage, the options exchanges have agreed to three changes to Satisfaction Order processing as set forth in Joint Amendment No. 11 to the Linkage Plan and proposed for implementation in this proposed rule change.

First, Section 8(c)(ii)(B)(2) of the Linkage Plan and Amex Rule 1902 (the “Rule”) currently permit a specialist to send a Satisfaction Order for the full size of the customer order traded-through, regardless of the size of the transaction that caused the Trade-Through (although the Participant receiving the Satisfaction Order that elects to execute it must limit its execution to the size of the Trade-Through). This proposed rule change would provide that the size of the Satisfaction Order be limited to the lesser of the size of the customer order traded through and the size of the transaction that caused the Trade-Through.

Second, the Linkage Plan⁷ and the Rule currently permit a specialist to reject an execution (“fill”) of a Satisfaction Order if the customer order that underlies the Satisfaction Order either has been filled on the Amex or has been canceled while the Satisfaction Order is being processed. However, if the order is filled or canceled, there is no current requirement to cancel the pending Satisfaction Order, which leads to the rejection of Satisfaction Order fills that may have been avoided had the Satisfaction Order been canceled. To address this issue, the proposed rule change would require the specialist to cancel a pending Satisfaction Order as soon as practical if the underlying customer order is filled or canceled.

Third, as noted above, a specialist can reject a Satisfaction Order fill if the underlying customer order is executed or canceled while the Satisfaction Order is pending. However, it is possible that the specialist itself could trade against the customer order before the specialist receives a notice that the Satisfaction Order has been filled. In this case, the

⁵ A “Participant” is defined as an Eligible Exchange whose participation in the Linkage Plan has become effective pursuant to Section 4(c) of the Linkage Plan. See Section 2(24) of the Linkage Plan. Currently, the Participants in the Linkage Plan are the International Securities Exchange, Inc., the Amex, the Chicago Board Options Exchange, Inc., the Pacific Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Boston Stock Exchange, Inc.

⁶ See Sections 7(a)(ii)(D) and 8(c)(ii) of the Linkage Plan.

⁷ See Section 8(c)(ii)(C) of the Linkage Plan.

Amex believes that it would be inappropriate to reject the fill. Accordingly, the proposed rule change would provide that the specialist must accept the fill of the Satisfaction Order in that scenario.

2. Statutory Basis

The Amex believes that the proposed rule is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5)⁹ 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 regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities. In particular, the Exchange believes that the proposed rule change will enhance the national market system for options by improving the way all Participants handle Satisfaction Orders.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Amex 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

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

III. 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. Please include File Number SR-Amex-2004-33 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.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

All submissions should refer to File Number SR-Amex-2004-33. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will 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 Number SR-Amex-2004-33 and should be submitted on or before August 2, 2004.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act¹¹ which requires, among other things, that the rules of an exchange be 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 to protect investors and the public interest. The Commission believes that the proposed rule change should facilitate the handling of Satisfaction Orders in an efficient and fair manner.

The Commission finds good cause for approving the proposed rule change

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

prior to the thirtieth day after the date of publication of the notice thereof in the **Federal Register**. As noted above, the proposed rule change incorporates changes into the Amex Rules that correspond to changes made to the Linkage Plan through Joint Amendment No. 11, which was published for public comment in the **Federal Register** on May 19, 2004.¹² The Commission received no comments in response to publication of Joint Amendment No. 11. The Commission believes that no new issues of regulatory concern are being raised by Amex's proposed rule change. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Sections 6 and 19(b) of the Act.¹³

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-Amex-2004-33) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-15746 Filed 7-9-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49964; File No. SR-BSE-2004-17]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto by the Boston Stock Exchange, Inc. Relating to the Handling of Satisfaction Orders Pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage

July 2, 2004.

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 April 28, 2004, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared

¹² See *supra* note 4.

¹³ 15 U.S.C. 78f and 78s(b).

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

by the BSE. The Exchange submitted Amendment No. 1 to the proposed rule change on June 14, 2004.³ 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 is proposing to amend the requirements in the rules of the BSE related to the trading of options contracts on the Boston Options Exchange ("BOX"), a facility of the Exchange, regarding how its members handle Satisfaction Orders⁴ pursuant to the Linkage Plan.

The text of the proposed rule change, as amended, is available at the Exchange and at the Commission.

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 had received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 this filing is to implement a proposed rule change related to proposed Joint Amendment No. 11 to the Linkage Plan.⁵ That amendment to the Linkage Plan,

³ See Letter from John Boese, Chief Regulatory Officer, BSE to Nancy J. Sanow, Assistant Director, Commission, dated June 9, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange submitted a new Form 19b-4, which replaced and superceded the original filing in its entirety.

⁴ A "Satisfaction Order" is defined as an order sent through the Options Intermarket Linkage ("Linkage") to notify a Participant of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through. A "Trade-Through" is a transaction in an options series at a price that is inferior to the National Best Bid or Offer. See Sections 2(16)(c) and 2(29) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (the "Linkage Plan"), respectively.

⁵ See Securities Exchange Act Release No. 49691 (May 12, 2004), 69 FR 28954 (May 19, 2004) (File No. 4-429) (Notice of filing Joint Amendment No. 11 to the Linkage Plan).