

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58131; File No. SR-BSE-2008-37)

July 9, 2008

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Current Pilot Program for Quarterly Options Series on the Boston Options Exchange Facility

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 July 8, 2008, the Boston Stock Exchange, Inc. (“BSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been 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 is proposing to extend until July 10, 2009, the current pilot program applicable to the Quarterly Options Series (“Pilot Program”) on the Boston Options Exchange (“BOX”) facility. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.bostonstock.com>), at the Exchange’s principal office, and at the Commission’s Public Reference Room.

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<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).

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 proposing to extend through July 10, 2009, the Pilot Program on BOX to list options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series").<sup>5</sup> The Pilot Program is currently set to expire on July 10, 2008. Under the Pilot Program, BOX may open Quarterly Options Series on up to five (5) currently listed options classes that are either index options or options on exchange traded funds (or "Exchange-Traded Fund Shares").<sup>6</sup> BOX also may list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules.

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<sup>5</sup> See Securities Exchange Act Release No. 56086 (July 17, 2007), 72 FR 40182 (July 23, 2007) (SR-BSE-2007-36).

<sup>6</sup> See Section 3 of Chapter IV of the BOX Rules pertaining to Exchange-Traded Fund Shares.

The Exchange has selected the following five options classes to participate in the Pilot Program: the Standard & Poor's Depository Receipts® (SPY); Powershares® QQQ Trust Series 1 (QQQQ); Diamonds® Trust Series 1 (DIA); iShares Russell 2000® Index Fund (IWM); and Select Sector SPDR® - Energy (XLE). The Exchange believes the Pilot Program has been successful and well received by its Participants and the investing public. Thus, the Exchange proposes to extend the Pilot Program through July 10, 2009.

In support of this proposed rule change, and as stipulated in the original Pilot Program proposal, the Exchange submitted to the Commission a report ("BOX Pilot Report") under separate cover, along with a request for confidential treatment under the Freedom of Information Act, detailing the Exchange's experience with the Pilot Program.<sup>7</sup> The Exchange also submitted, in an addendum to its Report ("Addendum"), data required by the recent amendment to the Pilot Program permitting the listing of additional ETF Quarterly Option Series.<sup>8</sup> Specifically, the

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<sup>7</sup> As set forth in SR-BSE-2007-36, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, it would submit, along with any filing proposing such amendments to the Pilot Program, a report providing an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect, and would include, at a minimum: (1) data and written analysis on the open interest and trading volume in the classes for which Quarterly Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of BOX, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how BOX addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how BOX addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program.

<sup>8</sup> See Securities Exchange Act Release No. 57598 (April 1, 2008), 73 FR 18828 (April 7, 2008) (SR-BSE-2008-17) (notice of filing and immediate effectiveness of proposed rule change to amend Quarterly Options Series pilot program to permit the listing of additional series). In connection with any renewal or permanent approval of the Pilot Program, the Commission required the Exchange to include in its report an analysis of (1) the impact of the additional series on the Exchange's market and quote capacity, and (2)

BOX Pilot Report contains data and written analysis regarding the five options classes included in the Pilot Program.

The Exchange represents that the Report and Addendum clearly demonstrate the extension of the Pilot Program for one year, through July 10, 2009, is warranted. The Exchange believes that there is sufficient investor interest and demand as reflected by strong trading volume. The Report and Addendum establish that the Pilot Program has provided investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the introduction of the Pilot Program. Finally, the Report and Addendum establish that the Pilot Program has not created capacity problems, nor should the proposed extension have an adverse impact on capacity.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>9</sup> in general, and Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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 Exchange believes that an extension of the Pilot Program will result in a continuing benefit to investors, by

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the implementation and effects of the delisting policy, including the number of series eligible for delisting during the period covered by the report, the number of series actually delisted during that period (pursuant to the delisting policy or otherwise), and documentation of any customer requests to maintain Quarterly Options Series strikes that were otherwise eligible for delisting.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

allowing them to more closely tailor their investment decisions, and will allow the Exchange to further study investor interest in quarterly options.

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 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

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 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>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<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 Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest and will promote competition because

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

<sup>12</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.

such waiver will allow the Exchange to continue the existing Pilot Program without interruption.<sup>13</sup> Therefore, the Commission designates the proposal 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-BSE-2008-37 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-BSE-2008-37. 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

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<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).

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 10:00 a.m. and 3:00 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-BSE-2008-37 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

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

Florence E. Harmon  
Acting Secretary

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