

Securities and Exchange Commission will hold the following meetings during the week of August 16, 2004:

Closed Meetings will be held on Tuesday, August 17, 2004 at 2 p.m. and Thursday, August 19, 2004 at 2 p.m.

An Open Meeting will be held on Wednesday, August 18, 2004 at 10 a.m., in Room 1C30, the William O. Douglas Meeting Room.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters 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)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Goldschmid, as duty officer, voted to consider the items listed for the closed meetings in closed sessions.

The subject matter of the Closed Meeting scheduled for Tuesday, August 17, 2004 will be:

Formal orders of investigations;  
Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings of an enforcement nature; and  
Adjudicatory matters.

The subject matter of the Open Meeting scheduled for Wednesday, August 18, 2004 will be:

1. The Commission will consider whether to adopt amendments to rule 12b-1 under the Investment Company Act of 1940. The amended rule would prohibit investment companies from paying for the distribution of their shares with brokerage commissions. For further information, please contact William Middlebrooks at (202) 942-0690.

2. The Commission will consider whether to adopt amendments to Forms N-1A, N-2, N-3, and N-CSR that are designed to improve the disclosure provided by mutual funds and closed-end funds about their portfolio managers. The amendments would extend the existing requirement that a fund provide basic information in its prospectus regarding its portfolio manager to members of management teams. The amendments would also require a fund to disclose additional information about its portfolio managers in its Statement of Additional Information (and, for closed-end funds,

in reports on Form N-CSR), including other accounts they manage, compensation structure, and ownership of securities in the fund. For further information, please contact Sanjay Lamba at (202) 942-7926.

The subject matter of the Closed Meeting scheduled for Thursday, August 19, 2004 will be:

Formal orders of investigations;  
Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings of an enforcement nature;  
Amicus consideration; and  
Regulatory matter regarding financial institutions.

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.

August 10, 2004.

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50147; File No. SR-OPRA-2004-02]

### Options Price Reporting Authority; Order Approving an Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information and Amendment No. 1 Thereto To Eliminate From the Plan References to the Fee Exemption Pilot Currently Provided for in the Plan

August 4, 2004.

On May 7, 2004, the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan").<sup>3</sup> On June

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>3</sup> The OPRA Plan is a national market system plan approved by the Commission pursuant to section 11A of the Act and Rule 11Aa3-2 thereunder. See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981).

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The six participants to the OPRA Plan

23, 2004, OPRA submitted Amendment No. 1 to the proposal.<sup>4</sup> The proposed amendment would eliminate from the OPRA Plan references to the fee exemption pilot that expired on May 31, 2004. Notice of the proposal, as modified by Amendment No. 1, was published in the **Federal Register** on July 8, 2004.<sup>5</sup> The Commission received no comment letters on the proposed OPRA Plan amendment. This order approves the proposal, as amended.

The purpose of the proposed OPRA Plan amendment is to eliminate references to the fee exemption pilot in section VII(d)(vi) of the OPRA Plan that provided a temporary exemption from OPRA fees for members of exchanges that were parties to the OPRA Plan and that acted as brokers or dealers on traditional exchange trading floors or as specialists or market makers on electronic exchanges or electronic facilities of exchanges. OPRA also proposes to eliminate section V(e) of the OPRA Plan, which provided that parties to the OPRA Plan could access OPRA information on their trading floors or at their other business locations without being obligated to pay fees to OPRA. OPRA states that the effect of the proposed amendment would be to make all devices that are used to access options market information furnished by OPRA subject to OPRA's information fees.

OPRA also proposes to amend the definitions of "vendor" and "subscriber" set forth in paragraphs (k) and (l) of section II of the OPRA Plan to confirm that the receipt of options market data by an exchange over devices maintained by such exchange at its business locations would not involve redistribution of the data by such exchange, notwithstanding that members of such exchange could be able to access the information over those devices. Finally, as a matter of "housekeeping," OPRA proposes to delete from section V(c)(i) of the OPRA Plan language concerning the introduction of OPRA's BBO Service in 2003 since the BBO Service is now in place.

After careful review, the Commission finds that the proposed OPRA Plan amendment is consistent with the

are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

<sup>4</sup> See letter from Michael L. Meyer, Counsel to OPRA, Schiff Hardin LLP, to Deborah Flynn, Assistant Director, Division of Market Regulation, Commission, dated June 22, 2004, replacing in its entirety the initial proposal filed on May 7, 2004.

<sup>5</sup> See Securities Exchange Act Release No. 49958 (July 1, 2004), 69 FR 41312.

requirements of the Act and the rules and regulations thereunder.<sup>6</sup> The Commission believes that the proposed OPRA Plan amendment is consistent with section 11A of the Act<sup>7</sup> and Rule 11Aa3-2 thereunder<sup>8</sup> in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system.

Specifically, given the expiration of the fee exemption pilot for accessing OPRA information, the Commission finds that it is appropriate to eliminate any references within the OPRA Plan to such fee exemption so as to avoid confusion. Moreover, the Commission believes that subjecting all devices used to access OPRA information, whether on-floor or off-floor, to OPRA's information fees should help to ensure that the various participants do not receive disparate treatment under the OPRA Plan. The Commission also believes that OPRA's proposed amendments to the definitions of "vendor" and "subscriber" and the deletion of language concerning the introduction of its BBO Service should promote clarity within the language of the OPRA Plan.

It is therefore ordered, pursuant to section 11a of the Act,<sup>9</sup> and Rule 11Aa3-2 thereunder,<sup>10</sup> that the proposed OPRA Plan amendment (SR-OPRA-2004-02), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50154; File No. SR-BSE-2003-09]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to the Extension of Certain Listed Trading Rules to the Trading of Nasdaq Securities

August 5, 2004.

On July 2, 2003, 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 extend certain of its listed trading rules to the trading of Nasdaq securities. On April 5, 2004, the Exchange amended the proposed rule change.<sup>3</sup> On May 6, 2004, the Exchange amended the proposed rule change.<sup>4</sup>

The proposed rule change was published for comment in the **Federal Register** on June 7, 2004.<sup>5</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The proposed rule change would add two new sections to the BSE's Rules relating to the trading of Nasdaq securities on the Exchange. The first proposed new section, "Section 30. Competing Specialist Initiative," would permit specialists who trade Nasdaq securities on the BSE to avail themselves of the Exchange's competing specialist program. The second proposed new section, "Section 31. Remote Trading in Nasdaq Securities," would extend the BSE's BEACON Remote trading program to include Nasdaq trading.<sup>6</sup> In both cases, the proposed new rules would track the

language contained in corresponding existing rules relating to listed securities. For example, the BEACON Remote trading program requirements currently applicable to the trading of listed securities, including the applicability of other BSE Rules, confidentiality, "Chinese Walls," communications, and Electronic Trading Permits ("ETPs"), would apply with respect to the remote trading of Nasdaq securities.

The Commission notes that the Exchange has represented that, as with current BEACON Remote locations, the Exchange's Compliance Department will physically inspect each remote Nasdaq location. Likewise, the proposed rule change includes ETP provisions that require, among other things, that all registered specialists and clerks complete a floor-training program, unless waived under certain exceptional circumstances, as well as successfully complete the BSE floor examination and the Series 63 (NASAA Uniform State Law Exam).<sup>7</sup> In addition, each registered clerk in a remote location who qualifies for an ETP would be required to operate under the direct supervision of a registered specialist at such remote location, just as a registered clerk is supervised in the on-floor environment.

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>8</sup> The Commission 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)(5),<sup>10</sup> 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 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. Specifically, the

<sup>7</sup> According to the BSE, the on-site floor training includes, among other things: Communication procedures with Front Desk Operations, Surveillance, Systems Support; Competing Specialist Initiative and Unlisted Trading Privilege applications and procedures; stock allocation procedures; trading halt procedures; and availability of books and records.

<sup>8</sup> 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).

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

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

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from John Boese, Vice President, Legal and Compliance, Exchange, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 2, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange restated the proposed rule change in its entirety.

<sup>4</sup> See letter from John Boese, Chief Regulatory Officer, Exchange, to Nancy Sanow, Assistant Director, Division, Commission, dated May 5, 2004 ("Amendment No. 2"). In Amendment No. 2, the Exchange restated the proposed rule change in its entirety.

<sup>5</sup> See Securities Exchange Act Release No. 49771 (May 25, 2004), 69 FR 31851.

<sup>6</sup> The BSE's BEACON Remote trading system was approved by the Commission on August 8, 2000. See Securities Exchange Act Release No. 43127 (August 8, 2000), 65 FR 49617 (August 14, 2000) (SR-BSE-99-1).

<sup>6</sup> In approving this proposed OPRA Plan amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78k-1.

<sup>8</sup> 17 CFR 240.11Aa3-2.

<sup>9</sup> 15 U.S.C. 78k-1.

<sup>10</sup> 17 CFR 240.11Aa3-2.

<sup>11</sup> 17 CFR 200.30-3(29).