

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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

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

The Exchange is requesting accelerated approval of the proposed rule change pursuant to Section 19(b)(2) to ensure that this rule becomes effective on January 1, 1999 in conjunction with the effectiveness of comparable rules of the NYSE, which was approved by the Commission on December 29, 1998). Other self-regulatory organizations ("SROs") are adopting these rules or issuing interpretive releases to provide uniformity throughout the securities industry.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR-BSE-98-14 and should be submitted by January 28, 1999.

V. Conclusion

The Exchange is requesting accelerated approval of the proposed rule change pursuant to Section 19(b)(2) to ensure that this rule becomes

effective on January 1, 1999 in conjunction with the effectiveness of comparable NYSE rules. It is expected that in the near future other SROs will adopt similar rules or issue interpretive releases to provide uniformity throughout the securities industry. To prevent prospective plaintiffs from being disadvantaged by any inconsistency in the effective dates of SROs rule changes or interpretive releases, the Commission finds good cause for approving the proposal prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,⁶ that the proposal, SR-BSE-98-14, be and hereby is approved on an accelerated basis.⁷

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40856; File No. SR-BSE-98-12]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Amended, by the Boston Stock Exchange, Inc. Relating to its Minor Rule Violation Plan.

December 29, 1998.

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 9, 1998, 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. On December 23, 1998, the Exchange submitted Amendment No. 1 to the proposed rule change.³ The Commission is publishing

⁶ 15 U.S.C. 78s(b)(2).

⁷ In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Karen A. Aluise, Vice President, BSE, to Ann Vlcek, Division of Market Regulation, Commission, dated December 23, 1998 ("Amendment No. 1"). In Amendment No. 1, the BSE clarified language regarding the Summary Fines for violation of the Post Rules.

this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change, as amended.

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

The Exchange seeks to adopt written policies and procedures to address certain administrative issues related to the new trading floor ("Floor")⁴ in an effort to control access to secure areas and to give jurisdiction over posts to the Floor Facilities Committee ("Committee"). The text of the Exchange's proposal 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 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

The purpose of the proposed rule change is to add two trading floor rules in regard to post assignment and telecommunications room ("Comm Room") access to the Exchange's Minor Rule Violation Plan's Summary Fine Schedule. This will enable the Exchange to address violations of these two rules, which are deemed minor in nature due to their administrative function, through the use of fines rather than a full disciplinary procedure.

The proposed Summary Fines regarding Post Rules provide that any post relocation or alteration of any post without the prior written consent of the Committee; refusal of a post location change by the Committee; use of an unassigned post for any purpose without the prior written consent of the Exchange; storage of materials in an unauthorized area of the Floor; and/or placing or installing any personal equipment (computers, file cabinets, chairs, bulletin boards, tables, shelves,

⁴ The BSE is scheduled to move into its new trading floor on January 4, 1999.

desks, etc.) without the prior written authorization of the Exchange could result in a \$250 fine for the initial offense and a \$500 fine for subsequent offenses by the Exchange for any damage to a post and/or the removal of materials and/or equipment.

The proposed Summary Fines regarding Comm Room Rules provides that not obtaining a permit number from the Exchange prior to any installation or servicing of hardware or telecommunications equipment (i.e., voice and data); unauthorized vendor access to the Comm Room or the Trading Floor without prior notification to the Exchange and accompaniment by an authorized Exchange staff member or floor member; and/or unauthorized equipment removal from any Exchange location could result in a \$250 fine for the initial offense and a \$500 fine for subsequent offenses. It further provides that these fines are in addition to any costs incurred by the Exchange for any loss of, damage to and/or removal of equipment.

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,⁵ in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

The BSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance 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 either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. 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 will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-98-12 and should be submitted by January 28, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of the 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 and, in particular, the requirements of Section 6 of the Act.⁶ Section 6(b)(5)⁷ of the Act states that the rules of an exchange must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating securities transactions. These rules also must help to remove impediments to and perfect the mechanism of a free and open market. The Commission believes the proposed Summary Fines regarding the Post Rules and Comm Rules are consistent with this provision of the Act in that they will enable the Exchange to appropriately address violations of these rules.

The Exchange's proposal is also consistent with the requirements in Sections 6(b)(1)⁸ and 6(b)(6)⁹ of the Act that the rules of an exchange enforce compliance with and provide appropriate discipline for violations of the Exchange's rules and the rules under the Act. Moreover, because BSE Chapter XVIII Section 4 provides procedural rights to the person fined, the proposal provides a fair procedure for the disciplining of members and persons associated with members, consistent with 6(b)(7)¹⁰ and 6(d)(1)¹¹ of the Act.

Pursuant to Section 19(b)(2),¹² the Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the

date of publication of notice thereof in the **Federal Register**.¹³ The Commission notes that the Exchange moves to its new trading floor on January 4, 1999, and believes that accelerated approval of the proposed rule change will enable the Exchange to better enforce compliance with its Post Rules and Comm Rules without any unnecessary delay. In addition, the Commission notes that the proposed rule change is generally administrative in nature and, as such, does not raise any competitive or investor protection issues.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change, as amended, (SR-BSE-98-12) is hereby approved on an accelerated basis.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40844; File No. SR-BSE-98-07]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to a Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Specialist Performance Evaluation Program

December 28, 1998.

I. Introduction

On October 8, 1998, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the depth measure calculations in its Specialist Performance Evaluation Program ("SPEP") pilot program and to seek permanent approval of the program at the expiration of the pilot on December 31, 1998. The Exchange submitted to the Commission

¹³ In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(1).

⁹ 15 U.S.C. 78f(b)(6).

¹⁰ 15 U.S.C. 78f(b)(7).

¹¹ 15 U.S.C. 78f(d)(1).

¹² 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78f(b)(5).