[Release No. 34–35800; File No. SR–BSE– 95–10]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc., Relating to Amendments to the Pilot Program Regarding Certain Procedures for the Handling of Market-on-Close Orders on Non-Expiration Days

June 1, 1995.

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 19, 1995, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change, and on May 31, 1995, filed Amendment No. 1 to the proposed rule change,³ as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The BSE has requested accelerated approval of the proposal. 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 seeks to adopt procedures for the handling of marketon-close orders on expiration days, nonexpiration days and in market conditions where New York Stock Exchange, Inc. ("NYSE") Rule 80A is in effect. These procedures mirror the procedures in place on the primary markets in order to ensure equal treatment of orders in both markets.

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 self-regulatory organization 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 self-regulatory organization 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 is to adopt certain procedures to mirror those of the primary markets for the handling of market-on-close ("MOC") orders on expiration days⁴ and nonexpiration days so that the BSE does not become a haven for MOC orders that are prohibited on the primary markets.⁵ In this way, all orders sent to the Exchange will receive equal treatment to orders sent to the primary markets. The proposed rule change proposes that on expiration days, all MOC orders in all stocks will be prohibited after 3:40 p.m., eliminating the limitation related to a strategy including stock index futures, stock index options or options on stock index futures in expiring contracts. The proposed procedures also include procedures applicable on nonexpiration days, such as: (a) Providing a 3:50 p.m. deadline for the entry of all MOC orders in all stocks, (b) prohibiting the cancellation or reduction of any MOC order in any stock after 3:50 p.m., (c) publishing order imbalances of 50,000 shares or more as soon as practicable after 3:50 p.m. in the pilot stocks, stocks being added to or dropped from an index, and in any other stock with the approval of a Floor Official and (d) limiting the entry of MOC orders after 3:50 p.m. to offset published imbalances. With respect to item (b) above, the Exchange will permit cancellations of MOC orders after 3:50 p.m. in those instances where a legitimate error has been made. The term "pilot stocks" refers to the list of stocks designated by the NYSE as pilot stocks for purposes of its auxiliary closing procedures.6

The proposed rule change also proposes certain procedures for the handling of MOC orders in market

⁵ The BSE's auxiliary closing procedures for expiration days have been approved on a pilot basis until October 31, 1995. *See* Securities Exchange Act Release No. 34918 (October 31, 1994), 59 FR 55504 (''1994 Pilot Approval Order'').

⁶ The Expiration Friday pilot stocks consist of the 50 most highly capitalized Standard & Poors ("S&P") 500 stocks and any component stocks of the Major Market Index ("MMI") not included therein. The QIX Expiration Day pilot stocks consist of the 50 most highly capitalized S&P 500 stocks, any component stocks of the MMI not included therein and the 10 highest weighted S&P Midcap 400 stocks.

conditions where the NYSE's Rule 80A is in effect. On non-expiration days, if an MOC index arbitrage order to buy (sell) to establish or increase a position is entered, and Rule 80A subsequently goes into effect because of significant upward (downward) market movement, the MOC order must be canceled, regardless of the time Rule 80A goes into effect. If Rule 80A goes into effect prior to 3:50 p.m., the MOC order may be re-entered with the instruction "buy minus" ("sell plus"). If Rule 80A goes into effect after 3:50 p.m. and there is a published imbalance in the subject stock the MOC order may be re-entered with the instruction "buy minus" ("sell plus") to offset the imbalance.

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2. Statutory Basis

The statutory basis for the proposed rule is Section 6(b)(5) of the Exchange Act in that it is designed to prevent fraudulent and manipulative acts and practices, 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 in general, to protect investors and the public interest; 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 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 written comments on the proposed rule change.

¹15 U.S.C. 78s(b)(1).

²17 CFR 240.19b-4.

³ See Letter from Karen A. Aluise, Assistant Vice President, BSE to Elisa Metzger, Senior Counsel, SEC, dated May 31, 1995.

⁴ The term "expiration days" refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently ("Expiration Fridays") and (2) the trading day on which end of calendar quarter index options expire ("QIX Expiration Days").