

transactions described herein, (ii) the transactions can be consummated as described in the Application under applicable insurance laws, and

(iii) that any applicable regulatory requirements in each jurisdiction where the Variable Contracts are qualified for sale have been complied with to the extent necessary to complete the transaction.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48668; File No. SR-BSE-2003-07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. To Amend Its Listed Securities Requirements Relating to the Mandatory Establishment of Independent Audit Committees for All Listed Issuers

October 21, 2003.

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 July 16, 2003, 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, II and III below, which Items have been prepared by the Exchange. 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 proposes to add new requirements concerning audit committees to its Listed Securities Requirements in Chapter XXVII of the Rules of the Board of Governors of the BSE ("BSE Rules"). The Exchange states that the proposed rule change will address the requirements of Rule 10A-3 under the Act relating to the mandatory establishment of independent audit committees for all listed issuers.³ The text of the proposed

rule change is below. Text in italics indicates material to be added.

* * * * *

Chapter XXVII

Listed Securities—Requirements

Sec. 1-9. No change.

Sec. 10. Corporate Governance

A. Audit Committees: All issuers with securities listed on the Boston Stock Exchange will be required to establish an independent audit committee that shall be defined as: "An independent committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the Company and audits of the financial statements of the Company; and if no such body exists with respect to the Company, the entire board of directors." All issuers with securities listed on the Boston Stock Exchange shall comply with the following rules:

1. Required Standards for Audit Committee Pursuant to SEC Rule 10A-3:

(a) Pursuant to section 10A(m) of the Act (15 U.S.C. 78j-1(m)) and section 3 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7202):

(1) National securities exchanges. The rules of each national securities exchange registered pursuant to section 6 of the Act (15 U.S.C. 78f) must, in accordance with the provisions of this section, prohibit the initial or continued listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (b) or (c) of this section.

(2) National securities associations. The rules of each national securities association registered pursuant to section 15A of the Act (15 U.S.C. 78o-3) must, in accordance with the provisions of this section, prohibit the initial or continued listing in an automated inter-dealer quotation system of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (b) or (c) of this section.

(3) Opportunity to cure defects. The rules required by paragraphs (a)(1) and (a)(2) of this section must provide for appropriate procedures for a listed issuer to have an opportunity to cure any defects that would be the basis for a prohibition under paragraph (a) of this section, before the imposition of such prohibition. Such rules also may provide that if a member of an audit committee ceases to be independent in accordance with the requirements of this section for reasons outside the

member's reasonable control, that person, with notice by the issuer to the applicable national securities exchange or national securities association, may remain an audit committee member of the listed issuer until the earlier of the next annual shareholders meeting of the listed issuer or one year from the occurrence of the event that caused the member to be no longer independent.

(4) Notification of noncompliance. The rules required by paragraphs (a)(1) and (a)(2) of this section must include a requirement that a listed issuer must notify the applicable national securities exchange or national securities association promptly after an executive officer of the listed issuer becomes aware of any material noncompliance by the listed issuer with the requirements of this section.

(5) Implementation.

(i) The rules of each national securities exchange or national securities association meeting the requirements of this section must be operative, and listed issuers must be in compliance with those rules, by the following dates:

(A) July 31, 2005 for foreign private issuers and small business issuers (as defined in § 240.12b-2); and

(B) For all other listed issuers, the earlier of the listed issuer's first annual shareholders meeting after January 15, 2004, or October 31, 2004.

(ii) Each national securities exchange and national securities association must provide to the Commission, no later than July 15, 2003, proposed rules or rule amendments that comply with this section.

(iii) Each national securities exchange and national securities association must have final rules or rule amendments that comply with this section approved by the Commission no later than December 1, 2003.

(b) Required standards.

(1) Independence.

(i) Each member of the audit committee must be a member of the board of directors of the listed issuer, and must otherwise be independent; provided that, where a listed issuer is one of two dual holding companies, those companies may designate one audit committee for both companies so long as each member of the audit committee is a member of the board of directors of at least one of such dual holding companies.

(ii) Independence requirements for non-investment company issuers. In order to be considered to be independent for purposes of this paragraph (b)(1), a member of an audit committee of a listed issuer that is not an investment company may not, other

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.10A-3.