

clearing agency's services, or disciplined, the clearing agency must notify the participant of the specific grounds of the denial of services or the changes brought against the member. The clearing agency must provide the member with an opportunity to be heard on the grounds of the denial or to defend against any charges. The clearing agency must keep a record of the proceeding.

A member may request a hearing by filing with EMCC a written request setting forth the contested action of EMCC. Within seven business days after filing the request or three business days in the case of summary action, the objecting member must provide EMCC with a detailed written statement setting forth the contested action and the basis for objection. EMCC will notify the member in writing of the date and place of the hearing at least five business days prior to the hearing.

The hearing will be before a panel drawn from participant directors on the membership committee unless the contested action was taken by the membership committee. In such a case, the panel will be drawn from participant directors on the executive committee. The Committee will select the members of the panel. The objecting member will have an opportunity to be heard and may be represented by counsel. The panel will make a decision within ten business days after conclusion of the hearing. Although the panel's decision is considered final, the board may overturn any decision adverse to the member.

G. Equitable Allocation of Dues, Fees, and Charges

Section 17A(b)(3)(D) of the Exchange Act requires that the rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. EMCC's proposed fee schedule provides that it will charge \$5 for input, \$7.50 for late instructions after 9:00 p.m. on T, \$25 for late instructions after 11:00 a.m. on T+1, and \$7.50 for net settlement.⁵⁶

H. Burden on Competition

Section 17A(b)(3)(I) of the Exchange Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Exchange Act. As discussed in Section III.A., EMCC will automatically receive data on all trades

of EMCC members that have been submitted to TRAX or Match-EM. EMCC members do not have the ability to exclude trades from the EMCC clearance system unless they confirm trades without using TRAX's and Match-EM's automated confirmation system. Although EMCC's rules do not require that EMCC members submit all of their eligible trades to EMCC, as a practical matter EMCC members that want to obtain the benefit of Match-EM or TRAX must settle at EMCC. The Commission is concerned that this aspect of EMCC's operations could either force EMCC members to settle all their eligible trades at EMCC or result in trades being excluded from automated processing.⁵⁷ In addition, EMCC's arrangements with the locked-in trade sources could result in inhibiting future clearing agencies from beginning operations. Comment is requested as to whether this aspect of EMCC's operations is consistent with the Exchange Act.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application by August 11, 1997. Such written data, views, and arguments will be considered by the Commission in deciding whether to grant Euroclear's request for exemption from registration. Persons desiring to make written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. 600-30. Copies of the application and all written comments will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵⁸

Jonathan G. Katz,

Secretary.

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⁵⁷ To exclude trades from EMCC settlement, EMCC members would be forced to use manual processes to confirm trades. Members may want to exclude trades from EMCC's system for various reasons. For example, if the trade would cause a member to exceed its overnight exposure cap, it may want to process the trade through other means. In addition, brokers may have agreed to only submit trades to EMCC with EMCC members on both sides. Information on such trades would then be generally unavailable which would reduce market transparency.

⁵⁸ 17 CFR 200.30-3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38811; File No. SR-BSE-97-3]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Incorporated Relating to the Authority and Responsibility of Floor Officials

July 2, 1997.

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 June 18, 1997, the Boston Stock Exchange, Incorporated ("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 seeks to supplement its rule regarding the authority and responsibilities of Floor Officials, and the appeal of Floor Official rulings. The text of the proposed rule change is available at the Office of the Secretary, 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 Exchange included statements concerning the purpose of, and basis for, 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

The purpose of the proposed rule change is to more clearly define the authority and responsibilities of Floor Officials set forth in the Supplementary Material to Chapter I, Section 1 of the Rules of the Board of Governors, as well as to provide a mechanism for members

⁵⁶ The Commission understands that EMCC may adjust its fee schedule soon after being registered (providing that the Commission grants EMCC registration).

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

to appeal a ruling with which they may not agree. The current provisions are limited to defining who shall serve as Floor Officials and general jurisdiction of Floor Official authority. The Exchange seeks to explain in more detail the day-to-day functioning of the Floor Official in deciding issues that arise in regard to transactions on the floor or through Intermarket Trading System ("ITS").³ First, the Exchange proposes to add Supplementary Material .30, which states that the Board of Governors delegates authority to Floor Officials. Proposed Supplementary Material .30 also indicates that Floor Officials have numerous responsibilities regarding various rules, policies, and interpretations governing trading on the Exchange. In addition, the Exchange proposes to add Supplementary Material .40, which addresses the exclusion of Floor Officials from the ruling process due to conflicts of interest. Proposed Supplementary Material .50 and .60 refer to Floor Officials' responsibilities to keep apprised of new rules and policy determinations and to consult with other Floor Officials in making fair and consistent rulings. The Exchange also proposes to add Supplementary Material .70, which provides members with the ability to appeal an unfavorable decision by a Floor Official with which the member disagrees, or to bring changes in circumstances to the attention of the Floor Official involved in the ruling. Finally, Proposed Supplementary Material .80 deems the failure to comply with a Floor Official ruling to be a violation of the Rules of the Board of Governors. Although these provisions apply today in practice, the Exchange believes that their codification as part of the Exchange rules will clearly delineate member rights and obligations. The Exchange has further represented that the Rules are similar to practices established by the New York Stock Exchange concerning the authority and responsibilities of its floor officials.⁴

The basis for the proposed rule change is Section 6(b)(5) of the Act,⁵ in that the proposed rule change is designed 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; 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.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change: (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 June 18, 1997, the rule change proposal has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(e)(6)⁷ thereunder. In particular, the Commission believes the proposal qualifies as a "noncontroversial filing" in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to SR-BSE-97-03 and should be submitted by July 31, 1997.

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. 34-38812; File No. SR-NASD-97-29]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change and Amendments No. 1 and No. 2 Thereto Relating to Prohibition on Members Receiving any Payment To Publish a Quotation, Make a Market in an Issuer's Securities or Submit an Application to Make a Market in an Issuer's Securities

July 3, 1997.

On April 18, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange Commission ("SEC" or "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 prohibit members from receiving any payment to publish a quotation, make a market in an issuer's securities or submit an application to make a market in an issuer's securities. On May 19, 1997 and May 21, 1997, the NASD submitted two amendments ("Amendment No. 1" and

³ The ITS, a communications and order routing network linking eight national securities exchanges and the electronic over-the-counter ("OTC") market operated by the NASD, is a National Market System plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder.

⁴ NYSE Floor Official Manual, pp. 1-3 (June 1996).

⁵ 15 U.S.C. § 78f(b)(5).

⁶ 15 U.S.C. § 78s(b)(3)(a).

⁷ 17 CFR 240.19-4(e)(6).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.