

(A) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body;

(B) final preparation of such reports;

(C) Supervision of individuals who assist in the preparation of such reports;

(D) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived;

(E) supervision and/or performance of the member's responsibilities under all Exchange or SEC financial responsibility rules; and

(F) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations.

Such person shall successfully complete the Series 27 Financial and Operations Principal Examination.

(b) Requirements for Members or Member Organizations Carrying the Accounts of JBO Participants. A member or member organization that carries the accounts of JBO Participants shall:

1. Maintain (i) tentative net capital of not less than \$25 million as computed pursuant to SEC Rule 15c3-1 or (ii) net capital of not less than \$10 million as computed pursuant to SEC Rule 15c3-1, provided that such member or member organization has as its primary business the clearance of options market maker accounts and provided that at least 60% of the sum of gross haircuts calculated for all options market maker accounts and accounts of JBO Participants, without regard to related account equity or clearing firm net capital charges, is attributable to options market maker transactions. Any member or member organization operating pursuant to subsection (ii) of this paragraph must include the gross deductions calculated for all accounts of JBO Participants in such member's or member organization's ratio of gross options market maker deductions to adjust net capital in accordance with the provisions of SEC Rule 15c3-1;

2. Require and maintain equity of \$1,000,000 for each JBO Participant. If equity decreases below \$1,000,000 the member or member organization carrying the JBO Participant's account shall issue a call for additional funds or securities which shall be obtained within five business days;

3. Adjust its net worth daily by deducting any deficiency between a JBO Participant's account equity and the proprietary haircut calculated pursuant to SEC Rule 15c3-1 for the positions maintained in such account;

4. Establish and maintain written ownership standards for accounts of JBO Participants; and

5. Develop risk analysis standards for assessing the amount of credit extended to JBO Participants which shall be made available to the Exchange upon request.

• Interpretations and Policies:

.01 JBO Participants shall not be considered self-clearing for any purpose other than the extension of credit under Article X, Rule 3 or under the comparable rules of another self regulatory organization.

[FR Doc. 98-24092 Filed 9-8-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40385; File No. SR-NYSE-98-20]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to an Interpretation of Article IV, Section 14 of the Exchange Constitution

August 31, 1998.

I. Introduction

On July 10, 1998, the New York Stock Exchange, Inc. ("NYSE" 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 interpret Article IV, Section 14 of the Exchange Constitution to provide that decisions of the Director of Arbitration regarding jurisdiction and hearing situs are not subject to review by the Exchange's Board of Directors ("Board").

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 40229 (July 17, 1998), 63 FR 40150 (July 27, 1998). No comments were received on the proposal. This order approves the proposed rule change.

Description

The Exchange proposes to interpret Article IV, Section 14 of the Exchange Constitution so that decisions of the Director of Arbitration on issues of jurisdiction and hearings situs are not subject to review by the Exchange's Board at the request of a member, member organization, allied member or approved person. Article IV, Section 14

of the Exchange Constitution provides that where the Board has delegated its powers to an officer or employee, "a member, member organization, allied member or approved person affected by a decision of any officer or employee . . . may require a review by the Board of such decision."³ No explicit exception is made for actions taken by the Director of Arbitration. Article IV, Section 13 also provides the Board with authority to interpret the Constitution.

Article XI, Section 1 of the Exchange Constitution and Exchange Rule 600 establish the jurisdiction of the Exchange's arbitration forum.⁴ The Director of Arbitration is "charged with the duty of performing all ministerial duties in connection with matters submitted for arbitration."⁵ These duties include making the initial decisions regarding jurisdiction and hearing situs.⁶ When a claim is submitted for arbitration at the Exchange, the Director of Arbitration determines whether the claim submitted falls within the parameters of the Exchange's jurisdiction. Exchange Rule 613 deals with the situs of a hearing and provides that "[t]he time and place for the initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators."

The Exchange believes that Exchange Rule 621 and applicable law provide for the review of the Director's decisions by arbitrators or the courts. Under Exchange Rule 621, arbitrators are empowered to interpret and determine the applicability of all provisions of the Arbitration Rules; thereby the Exchange believes arbitrators can overturn decisions of the Director of Arbitration regarding situs of the first hearing. In

³ The NYSE notes that in the past, members have requested, and the Board has granted, review of the Director of Arbitration's decisions on jurisdiction and hearing situs.

⁴ "Any controversy between parties who are members, allied members or member organizations and any controversy between a member, allied member or member organization and any other person arising out of the business of such member, allied member or member organization, or the dissolution of a member organization, shall at the instance of any such party, be submitted for arbitration in accordance with the provisions of this Constitution and such rules as the Board may from time to time adopt." (Article XI, Sec. 1).

"All dispute, claim or controversy between a customer or non-member and a member, allied member, member organization and/or associated person arising in connection with the business of such member, allied member, member organization and/or associated person in connection with his activities as an associated person shall be arbitrated under the Constitution and Rules of the New York Stock Exchange, Inc. as provided by any duly executed and enforceable written agreement or upon the demand of the customer or non-member." Exchange Rule 600.

⁵ Exchange Rule 635.

⁶ Exchange Rules 600 and 613.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

addition, the NYSE states that decisions of the Director of Arbitration regarding jurisdiction are subject to review by the courts.⁷ The Exchange also notes that interlocutory procedural decisions are rarely appealable in judicial and arbitral processes, but instead are reserved for consideration as part of any overall review of the lowest court's or arbitrator's decision.⁸ The Exchange notes that any review by the Board of staff action is in the nature of an interlocutory appeal, which the arbitrators and the courts may subsequently review. All this may result in an unnecessary delay in the final resolution of an arbitration claim.

III. Discussion

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, with the requirements of Section 6(b).⁹ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) of the Act¹⁰ in that it promotes just and equitable principles of trade by providing members, member organizations and the public with a fair and impartial forum for the resolution of their disputes.¹¹

The Commission believes that the proposed rule change provides for adequate review by arbitrators or by the courts of the Director's decision as to whether a claim submitted to arbitration falls within the Exchange's jurisdiction, or as to the hearing situs of the arbitration; therefore, review by the Board is not necessary. The Commission believes it is reasonable for arbitrators to review the Director's decision as to the hearing situs, under their authority to interpret and determine the applicability of the arbitration rules.¹² In addition, the Commission notes that decisions as to jurisdiction are subject to review by the courts. The Commission also notes that the proposed rule change allows for a more efficient arbitration process.¹³

⁷ See *Spear, Leeds & Kellogg v. Central Life Assurance Co.*, 85 F.3d 21 (2d Cir. 1996).

⁸ This reservation occurs in part because interlocutory appeals are frequently employed by parties simply to gain tactical advantage in the dispute. In addition, a substantive resolution of the conflict will often moot the procedural issues.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² See Exchange Rule 621.

¹³ The Commission also notes that the Board has the authority to interpret the Constitution.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-NYSE-98-20) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF STATE

Advisory Committee on Religious Freedom Abroad; Public Meeting Notice 2892

The Department of State announces a meeting of the Secretary of State's Advisory Committee on Religious Freedom Abroad (AC) on Tuesday, September 15, 1998 from 12:00 to 5:00 p.m. in Room 1105 at the U.S. Department of State, 2201 C Street, NW., Washington, DC. We regret the short time frame on this notice. This was unavoidable and due to last minute scheduling difficulties. The agenda for the AC meeting will include:

- 12:00—Update on activities by Advisory Committee members to advocate religious freedom and the work of the AC Teams over the past few months.
- 12:45—Introduction of and Discussion with Robert Seiple, the new Special Representative of the Secretary of State for International Religious Freedom.
- 1:30—Panel Presentation and Discussion: The Theological Principles for Tolerance, Forgiveness, Reconciliation, and Respect for Human Rights.
- 3:30—Presentations and Comments from Members of the Public.
- 4:30—Closing Remarks.
- 5:00—Adjournment.

The meeting is open to the public up to the seating capacity of the rooms. Admittance to the State Department building is only by means of a pre-arranged clearance list, in accordance with routine security purposes. In order to be placed on the pre-clearance list, please provide your name, title, office or organization, social security number, date of birth, and citizenship to Ms. Kim Mallory by fax at (202) 647-9519 or by telephone at (202) 647-1422. All attendees must use the "C" Street entrance. One of the following valid ID's

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

will be required for admittance: U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

FOR FURTHER INFORMATION CONTACT: Ms. Alexandra Arriaga, Executive Secretary of the Advisory Committee by fax at (202) 647-9519 or by telephone at (202) 647-1422.

Dated: September 4, 1998.

Alexandra Arriaga,

Executive Secretary, Advisory Committee on Religious Freedom Abroad.

[FR Doc. 98-24282 Filed 9-8-98; 8:45 am]

BILLING CODE 4710-18-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA; Joint RTCA Special Committee 180 and EUROCAE Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held September 22-25, 1998, starting at 8:30 a.m. on September 22. The meeting will be held at EUROCAE Headquarters, 17 rue Hamelin, Paris, France.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Leadership Team Meeting Report; (5) Review Action Items; (6) Review Issue Logs; (7) Issue Team Status; (8) Plenary Disposition of Document Comments; (9) New Items for Consensus; (10) Special Committee 190 Committee Activity Report; (11) Other Business; (12) Establish Agenda for Next Meeting; (13) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036; (202) 833-9339 (phone); (202) 833-9434 (fax); or <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.