

begin preparing for industry-wide testing. The Commission finds good cause for approving the proposed rule change, including Amendment No. 1 thereto, prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**. It is vital that SROs such as the Amex have the authority to mandate that their member firms participate in year 2000 testing and that they report test results (and other Year 2000 information) to their SROs. The proposed rule change will help the Amex participate in coordinating Year 2000 testing, including industry-wide testing, and in remediating any potential Year 2000 problems. This, in turn, will help ensure that the industry-wide tests and the Amex's Year 2000 efforts are successful. The proposed rule change will also help the Amex work with its member firms, the SIA, and other SROs to minimize any possible disruptions the Year 2000 may cause.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change 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 in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-98-40 and should be submitted by January 28, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act⁶ that the proposed rule change and Amendment No. 1 thereto is hereby approved on an accelerated basis.⁷

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).

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. 40861; File No. SR-BSE-98-14]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to its Arbitration Rules

December 29, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 9, 1998³ the Boston Stock Exchange, Inc. ("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 and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposal.

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

The Exchange seeks to amend its arbitration rules regarding arbitration of employment discrimination claims. The text of the proposed rule changes are as follows; additions are italicized.

* * * * *

CHAPTER XXXII

Arbitration

Arbitration Code

Sec. 1(a) Members—*Except as provided in subparagraph (c)(1) below, . . .*

(b) Customers or Non-Members—*Except as provided in subparagraph (c)(1) below, . . .*

(c) Jurisdiction—. . .

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4

³ Technical, non-substantive corrections were made pursuant to a December 29, 1998 conversation between Karen Aluise, Boston Stock Exchange, and Kathy England, Assistant Director, Division of Market Regulation, SEC.

(1) *A claim alleging employment discrimination, including any sexual harassment claim, in violation of a statute should be eligible for arbitration only where the parties have agreed to arbitrate the claim after it has arisen.*

* * * * *

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 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

(a) The purpose of the proposed rule change is to amend the Exchange's arbitration rules to exclude from mandatory arbitration any employee dispute between a registered representative or associated persons and a member organization alleging employment discrimination in violation of a statute, including sexual harassment, unless the parties to arbitrate the claim after it has arisen. This change follows the lead of the New York Stock Exchange ("NYSE")⁴ and the National Association of Securities Dealers ("NASD")⁵ concerning arbitration of employment discrimination claims in their respective fora, and is intended to prevent such claims from finding haven in the Exchange's arbitration forum unless there is a post-dispute arbitration agreement.

(b) The statutory basis for the proposed rule change is Section 6(b)(5) of the Exchange Act, 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.

⁴ See Exchange Act Release No. 40858 (December 19, 1998) _____ FR _____ (January _____, 1998) (SR-NYSE-98-28).

⁵ See Exchange Act Release No. 40109 (June 22, 1998) 63 FR 35299 (June 29, 1998).

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 Vleck, 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.