

III. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-Amex-2001-95), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.¹⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-16689 Filed 7-2-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46123; File No. SR-BSE-2001-09]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Clearly Erroneous Transactions in Nasdaq Securities

June 26, 2002.

I. Introduction

On December 26, 2001, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with 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 related to clearly erroneous transactions in The Nasdaq Stock Market, Inc. ("Nasdaq") securities. The proposed rule change was published for comment in the **Federal Register** on April 30, 2002.³ No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to add a section to Chapter XXXV of its rules, which pertains to the trading of Nasdaq securities on the Exchange. Proposed Section 30 would govern situations in which there is an obvious error in any part of a Nasdaq security transaction. In large part, the proposed Section 30 conforms to Nasdaq Rule 11890, Clearly Erroneous Transactions, and obliges Exchange specialists to cooperate with officers of Nasdaq in their review of clearly erroneous transactions occurring on a Nasdaq system.

III. Discussion

The Commission finds that the proposed rule change is consistent with the provisions of section 6(b) of the Act,⁴ in general, and section 6(b)(5) of the Act,⁵ in particular, which requires, among other things, that the rules of an exchange be 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 not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The proposal establishes a BSE rule that is an analogue to Nasdaq Rule 11890(b) and (c), regarding clearly erroneous transactions. This rule will foster cooperation between BSE specialists and officers of Nasdaq who are reviewing trades on Nasdaq systems to determine if they are clearly erroneous. This cooperation is particularly important because BSE currently participates in Nasdaq's SuperSoes and SelectNet systems and intends to participate in Nasdaq's SuperMontage system once it is launched. The proposal should help to ensure that clearly erroneous transactions are dealt with in such a manner that a fair and orderly market is maintained and that investors and the public interest are protected.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-BSE-2001-09) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46119; File No. SR-CBOE-2002-16]

Self Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Removal of the Restriction on Floor Brokers From Trading in the Same Crowds as Affiliated Designated Primary Market-Makers

June 25, 2002.

On April 18, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with 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 delete existing CBOE Rule 8.91(d) that prohibits a member affiliated with a Designated Primary Market-Maker ("DPM") from acting as a floor broker in any trading crowd in which that DPM is the appointed DPM.

The proposed rule change was published for comment in the **Federal Register** on May 17, 2002.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

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, the requirements of section 6 of the Act⁴ and the rules and regulations thereunder.⁵ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁶ which, among other things, requires that the CBOE's rules be designed to facilitate transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system. According to the CBOE, its Rule 8.91(d) was originally intended to prevent DPMs from circumventing their affirmative obligations, such as placing eligible public orders in the book, according priority to any order which the DPM acts as agent over the DPM's

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 45909 (May 10, 2002), 67 FR 35165.

⁴ 15 U.S.C. 78f.

⁵ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 45799 (April 22, 2002), 67 FR 21304.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-2(a)(12).

principal transactions, not charging any brokerage commission for the execution of orders for which the DPM acts as both agent and principal and not representing discretionary orders. The CBOE represented that its current rules will continue to prohibit DPMs from circumventing their obligations.⁷ Therefore, the Commission believes that the regulatory concerns that CBOE Rule 8.91(d) was intended to address will continue to be prevented. The Commission expects the CBOE to surveil its DPMs and affiliated floor brokers to ensure that they are not using their affiliations to circumvent CBOE rules.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-CBOE-2002-16) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release 34-46135; File No. 600-23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Order Approving an Extension of Temporary Registration as a Clearing Agency

June 27, 2002.

The Securities and Exchange Commission ("Commission") is publishing this notice and order to solicit comments from interested persons and to extend the Government Securities Clearing Corporation's ("GSCC") temporary registration as a clearing agency through June 30, 2003. On May 24, 1988, pursuant to sections 17A(b) and 19(a) of the Act¹ and Rule

⁷ For example, according to the CBOE, its Rule 6.43, Manner of Bidding and Offering, prohibits a DPM from directing its trades to particular members. Also, according to the CBOE, its Rule 7.4, Obligations for Orders, requires a DPM to "use due diligence to execute the orders placed in his custody at the best prices available to him under the Rules of the Exchange." Finally, the CBOE represented that its Rule 4.1, Just and Equitable Principles of Trade, provides a general protection from any illicit intentions by stating that: "No member shall engage in acts or practices inconsistent with just and equitable principles of trade. Persons associated with members shall have the same duties and obligations as members under the Rules of this Chapter [IV]."

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78q-1(b) and 78s(a).

17Ab2-1 promulgated thereunder,² the Commission granted GSCC registration as a clearing agency on a temporary basis for a period of three years.³ The Commission subsequently has extended GSCC's registration through June 30, 2002.⁴ GSCC requested that the Commission extend GSCC's temporary registration until such time as the Commission is prepared to grant GSCC permanent registration.⁵

The Commission today is extending GSCC's temporary registration as a clearing agency in order that GSCC may continue to act as a clearing agency while the Commission seeks comment on granting GSCC permanent registration as a clearing agency.⁶ GSCC acts as the central clearing entity for the U.S. Government securities trading and financing marketplaces.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act.⁷ Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549-0102. All submissions should refer to File No. 600-23 and should be submitted by July 24, 2002.

It is therefore ordered that GSCC's temporary registration as a clearing agency (File No. 600-23) be and hereby is extended through June 30, 2003.

² 17 CFR 240.17Ab2-1.

³ Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

⁴ Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19639; 29236 (May 24, 1991), 56 FR 24852; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; 41104 (February 24, 1999), 64 FR 10510; 41805 (August 27, 1999), 64 FR 48682; 42335 (January 12, 2000), 65 FR 3509; 43089 (July 28, 2000), 65 FR 48032; 43900 (January 29, 2001), 66 FR 8988; 44553 (July 13, 2001), 66 FR 37714; and 45164 (December 18, 2001), 66 FR 66957.

⁵ Letter from Jeffrey Ingber, Managing Director, General Counsel, and Secretary, GSCC (June 4, 2002).

⁶ The Commission continues to consider two issues related to GSCC's permanent registration status: (1) GSCC's organizational structure after its integration with The Depository Trust & Clearing Corporation and (2) the appropriate standard of care for GSCC.

⁷ 15 U.S.C. 78s(a)(1).

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 34-46136; File No. 600-22]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Approving a Request for an Extension of Temporary Registration as a Clearing Agency

June 27, 2002.

Pursuant to section 19(a) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 5, 2002, MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") a request that the Commission grant MBSCC full registration as a clearing agency or in the alternative extend MBSCC's temporary registration as a clearing agency until such time as the Commission is able to grant MBSCC permanent registration.² The Commission is publishing this notice and order to solicit comments from interested persons and to extend MBSCC's temporary registration as a clearing agency through June 30, 2003.

On February 2, 1987, pursuant to sections 17A(b) and 19(a) of the Act³ and Rule 17Ab2-1 promulgated thereunder,⁴ the Commission granted MBSCC registration as a clearing agency on a temporary basis for a period of eighteen months.⁵ The Commission subsequently has extended MBSCC's registration through June 30, 2002.⁶

The Commission today is extending MBSCC's temporary registration as a

⁸ 17 CFR 200.30-3(a)(1506).

¹ 15 U.S.C. 78s(a).

² Letter from Jeffrey F. Ingber, Managing Director, General Counsel, and Secretary, MBSCC (June 4, 2002).

³ 15 U.S.C. 78q-1(b) and 78s(a).

⁴ 17 CFR 240.17Ab2-1.

⁵ Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

⁶ Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; 41211 (March 24, 1999), 64 FR 15854; 42568 (March 23, 2000), 65 FR 16980; 44089 (March 21, 2001), 66 FR 16961; 44831 (September 21, 2001), 66 FR 49728; and 45607 (March 20, 2002), 67 FR 14755.