ETFs and TIRs and their related options. For example, operational efficiencies may be realized because orders in ETFs and TIRs and their related options may receive faster executions. In addition, combination orders may be executed in a more efficient and timely fashion. Therefore, the Commission believes that the potential improvements to liquidity and quality of the markets in ETFs and TIRs and their related options by the Amex's proposal outweigh the regulatory concerns.

For these reasons, the Commission finds that the proposed rule change permitting side-by-side trading and integrated market making of certain ETFs and TIRs and their related options is consistent with section 6(b)(5) of the Act.[24]

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (SR–Amex–2002–21), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18562 Filed 7–22–02; 8:45 am]

BILLING CODE 8010–01–P

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46220; File No. SR–BSE–2002–08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Boston Stock Exchange, Inc. To Extend its Specialist Performance Evaluation Program on a Pilot Basis

July 17, 2002.

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 25, 2002, the Boston Stock Exchange (''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 from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

The Exchange proposes to extend its Specialist Performance Evaluation Program until September 30, 2002. Below is the text of the proposed rule change. Proposed new language is italicized. Proposed deleted language is in brackets.

* * * * *

Chapter XV

Specialists

Specialist Performance Evaluation Program

Sec. 17 (a)–(e) no change.

(f) This program will expire on [June 30, 2002] September 30, 2002, unless further action is taken by the Exchange.

* * * * *

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 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

1. Purpose

The Exchange proposes to extend its Specialist Performance Evaluation Program (''SPEP'') pilot, until September 30, 2002. Under the SPEP pilot program, the Exchange regularly evaluates the performance of its specialists by using objective measures, such as turnaround time, price improvement, depth, and added depth. Generally, any specialist who receives a deficient score in one or more measures may be required to attend a meeting with the Performance Improvement Action Committee, or the Market Performance Committee.

While the Exchange believes that the SPEP program has been a very successful and effective tool for measuring specialist performance, it realizes that modifications are necessitated as a result of recent changes in the industry, particularly decimalization. Accordingly, the Exchange is seeking to extend the pilot period of this program so that evaluation and modification can be undertaken before permanent approval is requested.

2. Statutory Basis

The statutory basis for the proposed rule change is section 6(b)(5) of the Exchange Act,[3] 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder[5] because the proposal (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 25, 2002, the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; and BSE has provided the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change, or such shorter time the Commission may designate. At any time within 60 days of the filing of such proposed rule

[3] 15 U.S.C. 78f(b)(5).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

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.

The Commission has decided to waive the five day notice and designates that the proposal become operative on June 30, 2002, because it is consistent with the protection of investors and the public interest to continue the pilot program uninterrupted and permit the Exchange to continue to evaluate the pilot program in light of changes to the marketplace.

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 Act. 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 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 the File No. SR–BSE–2002–08 and should be submitted by August 13, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18563 Filed 7–22–02; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46097A; File No. SR–NASD–2002–69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Posting of Margin Disclosure and Day-Trading Risk Disclosure Statements on Web Sites; Correction

July 15, 2002.

In FR document No. 02–16257 beginning on page 43364 in the issue of Thursday, June 27, 2002, the title described the filing incorrectly. The title is corrected to read as set forth above.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–18559 Filed 7–22–02; 8:45 am]

BILLING CODE 8010–01–M

[1] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46221; File No. SR–NASD–2002–15]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Situations in Which a Suspended, Terminated, or Otherwise Defunct Member or Associated Person Fails To Answer or Participate in an Arbitration Proceeding

July 17, 2002.

I. Introduction

On February 1, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''), 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 amend Rule 10314 of the NASD Code of Arbitration Procedure (''Code'') to provide default procedures for situations in which a suspended, terminated, or otherwise defunct member or associated person (collectively referred to in this order as ''defunct'') fails to answer or participate in an arbitration proceeding, and the claimant nevertheless elects to pursue arbitration. The proposed rule change was published for comment in the **Federal Register** on May 1, 2002.[3] The Commission received one comment letter regarding the proposal.[4] NASD Dispute Resolution filed a response to the comment letter with the Commission on July 3, 2002.[5] This order approves the proposed rule change.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposed Rule Change

NASD Dispute Resolution is proposing to amend Rule 10314 of the Code to provide an expedited default procedure for certain cases in which a respondent is an associated person whose registration is terminated, revoked, or suspended; a member whose membership has been terminated, suspended, canceled, or revoked; a member that has been expelled from the NASD; or a member that is otherwise defunct. NASD Dispute Resolution represents that the procedures are designed to make it easier for claimants to obtain an award against a defunct party. This award can then be enforced in court. NASD Dispute Resolution states that the proposed rule change would address some concerns discussed in a United States General Accounting Office (''GAO'') report that was issued in June 2000.[7]

Under the proposed rule change, if a defunct respondent fails to answer the claim in a timely manner, the claimant may elect to proceed under optional default procedures as to that respondent. If there are several claimants, all must agree to use default procedures. The default procedures may be used against one or more defunct respondents while the rest of the initial

[3] *See* Securities and Exchange Act Release No. 45818 (April 24, 2002), 67 FR 21789.

[4] *See* letter from Barbara Black, Professor, and Jill I. Gross, Visiting Professor, Pace Law School, to Secretary, Commission, dated May 21, 2002 (''Pace Letter'').

[5] *See* letter from Jean I. Feeney, Chief Counsel and Associate Vice President, NASD Dispute Resolution, to Florence Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, dated July 3, 2002 (''NASD Letter'').

[6] The NASD Dispute Resolution represents that the proposal will be effective by October 15, 2002. Telephone conversation between Jean I. Feeney, Chief Counsel and Associate Vice President, NASD Dispute Resolution, and Cyndi Nguyen, Attorney, Division, Commission, on July 8, 2002.

[7] The report is entitled ''Securities Arbitration: Actions Needed to Address Problems of Unpaid Awards,'' Report No. GAO/GGD–00–115 (June 15, 2000) (''GAO Report''). The report is available online at *http://www.gao.gov.*