

Board
Memorandum

THE New York Stock
Exchange

September 19, 1973

Summary Memorandum

COMMISSION RATE INCREASE

The Issue

To review, for informational purposes, the status of the commission rate increase approved by the SEC on September 11, 1973, and the SEC's posture with respect to the future of fixed minimum commissions.

Background

On May 24, 1973 the Board of Directors approved in principle and submitted to the SEC Constitutional amendments to increase commissions by 10% on orders from \$100 to \$5,000 and by 15% on orders from \$5,000 to \$300,000. On September 11, following public hearings, the SEC approved the immediate adoption of the increases by the Exchange through March 31, 1974.

In order to consider this vital development as promptly as possible, the Board of Directors held a Special Meeting on September 14, instead of September 18, as originally scheduled. At that meeting, the Board approved the Constitutional Amendments for submission to the membership at a Special Meeting to be held Monday, September 24, the earliest date permitted under the Exchange Constitution.

In approving the commission rate increase, the SEC also stated three conclusions relating to the future of fixed minimum commissions:

“(2) [The Commission] will not object to the continuation of such a rate increase from April 1, 1974, through April 30, 1975, if the NYSE should first adopt rules, effective by or before April 1, 1974, which (a) eliminate that portion

of NYSE Rule 383 prohibiting member firms from charging their customers commission rates exceeding the NYSE's commission rate schedule, and (b) permit, but do not require, member firms to provide less than a full range of brokerage services presently furnished customers in return for discounts of up to 10 percent from the commission rate schedule referred to in subparagraph (1), above;

(3) It will act promptly to terminate the fixing of commission rates by stock exchanges after April 30, 1975, if the stock exchanges do not adopt rule changes achieving that result; and

(4) It will not initiate in April 1974, a breakpoint reduction below \$300,000 respecting the portion of orders above which rates may be competitively determined.”

Finally, the SEC stated that it had determined to announce its views in summary form immediately and to publish in the near future its letter to the securities exchanges embodying the reasons for its conclusions. (That letter had not been received at the time this memorandum was distributed.)

At the September 14 meeting, the Board considered whether to go beyond scheduling a membership meeting on the commission increases to adopt additional Constitutional amendments which would empower the Board to meet the conditions of paragraph (2) of the SEC Release. After discussion, the Board decided against adopting any further Constitutional provisions pending receipt of the SEC letter.

Future Board Action

Under the terms of the SEC approval, the Exchange may continue the 10% and 15% commission increases in effect through March 31, 1974. If increases are to continue beyond that date, the Exchange Constitution must be further amended to permit, but not require, Exchange members to offer customers a discount of up to 10% in consideration for providing less than a full range of brokerage services. This will require both Board

and membership action, and a new implementing rule. In addition, Rule 383 will have to be amended to permit members to charge customers more than the minimum rates of commission on small orders. The Board can make the necessary rule changes without a membership vote.

Following receipt of the SEC letter, the staff will be in a position to prepare and present to the Board recommendations for dealing with the terms outlined by the SEC for continuing fixed minimum commission rates beyond March 31, 1974.

Department of Regulatory Development