



REGULATORY CIRCULAR (05-03)

To: All BSE Member Firms
From: Maura Looney, Regulation & Enforcement
Date: February 3, 2005
Re: Pass through charges formerly referred to as “Section 31 fees” or “SEC fees”
Update to Regulatory Circular 04-02

On December 2, 2004, the Exchange issued a Regulatory Circular regarding pass through charges formerly referred to as “Section 31 fees” or “SEC fees.” In that Circular the Exchange suggested that “as recommended by the SIA, either the term ‘Regulatory Fee’ or ‘Reg Fee’ be used” to describe such charges.

However, Commission guidance states that the terms “Regulation Fee” or “Reg Fee,” “would be appropriate only if all funds collected under this denomination were in fact forwarded by the broker-dealer to a self-regulatory organization. If such funds were to be retained by the broker-dealer or remitted to a party other than an SRO, the label would be inappropriate because the funds collected would not have been applied to regulation.”

Accordingly, unless all funds collected are forwarded to a self-regulatory organization, the Exchange recommends that another term be used.

If there are any questions, please contact me at 617-235-2073.