

upon completion of the systems modifications, the Exchange should give advance notice to the Commission of the date when the new odd-lot pricing procedures are to be implemented.<sup>16</sup>

The Commission finds good causes for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. This will permit the pilot program to continue on an uninterrupted basis while the Amex works to implement the new procedures. In addition, the procedures the Exchange proposes to continue using are identical to the procedures that were published previously in the Federal Register for the full comment period and were approved by the Commission.<sup>17</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-Amex-96-25) is approved on a pilot basis for a four-month period ending on December 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

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[Release No. 34-37459; File Nos. SR-BSE-96-4, SR-CBOE-96-27, SR-CHX-96-20, SR-Phlx-96-12]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., and Philadelphia Stock Exchange Inc., Relating to Amendments to Trading Halts Due to Extraordinary Market Volatility ("Certain Market-Wide Circuit Breaker Provisions")**

July 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 12, 1996, the Chicago Stock Exchange, Incorporated ("CHX"); on July 15, 1996 the Boston Stock Exchange, Inc. ("BSE"); on July 17, 1996 the Chicago

Board Options Exchange, Incorporated ("CBOE"); and on July 18, 1996 the Philadelphia Stock Exchange, Inc. ("Phlx"), respectively (each individually referred to herein as an "Exchange" and two or more collectively referred to as "Exchanges"), filed with the Securities and Exchange Commission ("SEC" or "Commission") proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organizations. The Phlx submitted to the Commission Amendment No. 1 to its proposal on July 19, 1996.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. As discussed below the Commission is also granting accelerated approval of these proposed rule changes.

**I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes**

In 1988, the Commission approved circuit breaker rules proposals by the Exchanges.<sup>4</sup> In general, the Exchanges' circuit breaker rules provide that trading would halt for one hour if the Dow Jones Industrial Average ("DJIA")<sup>5</sup> were to decline 250 points from its previous day's closing level and, thereafter, trading would halt for an additional two hours if the DJIA were to decline 400 points from its previous day's close.

The Exchanges' rules further provide that if the 250-point trigger is reached during the last hour but before the last

half-hour of scheduled trading, or the 400-point trigger is reached during the last two hours, but before the last hour of trading, the Exchanges may then use abbreviated reopening procedures either to permit trading to reopen before the established close, or to establish closing prices. However, if the 250-point trigger is reached during the last half-hour, or if the 400-point trigger is reached during the last hour, the Exchanges shall not reopen for trading on that day.

The Exchanges propose to amend their circuit breaker rules to modify the time periods for halting trading on the Exchanges when the DJIA has declined by 250 or 400 points. The Exchanges propose to revise those time periods to one-half hour and one hour, respectively, from the one hour and two hours. The Exchanges also are proposing to amend their rules to eliminate the reference to using abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish new last sales prices if trigger values are reached in the last one-half hour or hour of trading.

**II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

In their filings with the Commission, the self-regulatory organizations included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizations have prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

**1. Purpose**

The Exchanges believe that it is appropriate to reduce the time period during which trading will be halted, particularly given the current level of automation support for trading process. The Exchanges believe that these revised time periods should be sufficient to provide a meaningful "time out" for participants to evaluate changing market conditions, without unduly constraining trading activity. The Exchanges are not proposing, at this time, to revise the 250/400 point trigger.

With respect to the use of abbreviated reopening procedures, the Exchanges

<sup>16</sup> The Commission expects the Amex to implement the new off-lot pricing procedures no later than the December 8, 1996 expiration of this pilot extension.

<sup>17</sup> See Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430; Securities Exchange Act Release No. 36821 (Feb. 8, 1996), 61 FR 6050.

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</sup> 17 C.F.R. 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.194-4.

<sup>3</sup> In Amendment No. 1, the Phlx indicated that the pilot period extension of its circuit breaker program will expire on October 31, 1996. See Letter from Murray L. Ross, Secretary, Phlx, to Chester McPherson, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated July 18, 1996.

<sup>4</sup> In 1988, the Commission approved the following circuit breaker proposals by the self-regulatory organizations ("SROs") on a pilot basis: See Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (American Stock Exchange ("AMEX")), National Association of Securities Dealers ("NASD") and New York Stock Exchange ("NYSE"); 26218 (October 26, 1988), 53 FR 44137 (CHX); 26357 (December 14, 1988), 53 FR 51182 (BSE); and 26386 (December 22, 1988), 53 FR 52904 (Phlx). Since the initial approval of the circuit breaker rules on a pilot basis, the Commission has extended the pilot program each year. The most recent extensions expire on October 31, 1996 for the Amex, NYSE and Phlx, and on October 31, 1997 for the BSE and CHX. See Securities Exchange Act Release No. 36414 (Oct. 25, 1995) 60 FR 55630. The Commission approved on a permanent basis the proposals by the CBOE, Cincinnati Stock Exchange ("CSE") and Pacific Stock Exchange ("PSE"). See Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (CBOE); 26440 (January 10, 1989) 54 FR 1830 (CSE); and 26368 (December 16, 1988), 53 FR 51942 (PSE).

<sup>5</sup> "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.

also are proposing to amend their rules to eliminate the reference to using abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish new last sales prices if trigger values are reached in the last one-half hour or hour of trading.<sup>6</sup>

In conjunction with its proposed amendment to its circuit breaker rules, the BSE also has filed to renumber Section 34, Chapter II of its rules as Section 34A, and to add a new section, Section 34B (Limitation on Trading During Significant Market Moves). This new section would adopt the language contained in the NYSE's Rule 80A(c) pertaining to the execution of index arbitrage orders during periods of significant market declines and advances. The BSE believes that the codification of this limitation will prevent orders that are prohibited in the primary market during periods of market stress from finding a safe harbor on the Exchange. In addition, the Exchange seeks to delete the redundant "80A" language contained in the Procedures for Competing Specialist contained in Chapter XV, Section 18, No. 14.

## 2. Statutory Basis

The proposed rule changes are consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade. The Exchanges believe that amending their circuit breaker rules is consistent with these objectives in that the revised trading halt periods still provide market participants with a reasonable opportunity to become aware of and respond to significant price movements, thereby facilitating, in an orderly manner, the maintenance of an equilibrium between buying and selling interest.

### *B. Self-Regulatory Organization's Statements on Burden on Competition*

The Exchanges do not believe that any burden will be placed on competition as a result of the proposed rule change.

<sup>6</sup> The PSE and CSE have general rules that require them to halt trading during the intermarket circuit breakers. See *supra* note 4. Consequently, they do not need to file conforming rule changes because their circuit breaker halts will automatically conform to the shortened halt periods adopted by the other exchanges. See Letters to Howard L. Kramer, Associate Director, OMS, Market Regulation, Commission, from David P. Semak, Vice President, Regulation, PSE, dated July 17, 1996; and Adam W. Gurwitz, Director of Legal Affairs, CSE, dated July 17, 1996.

### *C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants or Others*

Comments were neither solicited nor received with respect to the proposed rule changes.

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

The Exchanges request that the Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving the proposed amendments to their circuit breaker rules prior to the 30th day after publication of the proposed rule change in the Federal Register.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. 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 Nos. SR-BSE-96-4, SR-CBOE-96-27, SR-CHX-96-20, and SR-Phlx-96-12 and should be submitted by August 16, 1996.

## V. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Changes

After careful review of the Exchange's proposed amendments to their circuit breaker rules and for the reasons discussed below, the Commission believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>7</sup> Specifically, the Commission believes the proposals are consistent with the

<sup>7</sup> 15 U.S.C. 78f(b).

Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

In 1988, the Commission approved circuit breaker proposals by the SROs as a coordinated mechanism to deal with potential strains that may develop during periods of extreme market volatility.<sup>8</sup> These market-wide circuit breakers were intended to provide market participants with an opportunity to reestablish an equilibrium between buying and selling interest by ensuring that they had a reasonable opportunity to become aware of and respond to significant movements. In approving these proposals, the Commission also noted that an Interim Report of the Working Group on Financial Markets ("Working Group")<sup>9</sup> had recommended that in periods of rapid market decline that threaten to create panic conditions, trading halts and reopening procedures should be coordinated within the financial market place.<sup>10</sup> Specifically, the Working Group recommended that all U.S. markets for equity and equity-related products—stocks, individual stock options, stock index options, and stock index futures—halt trading during such periods of market volatility.<sup>11</sup> These recommendations, in part, were in response to the events of October 19, 1987, when the DJIA declined over 22.6%. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.<sup>12</sup>

Since the implementation of the circuit breakers, the DJIA has risen

<sup>8</sup> See *supra* note 4.

<sup>9</sup> The Working Group on Financial Markets was established by the President in March 1988 in response to the 1987 market break. It consisted of the Under Secretary for Finance of the Department of the Treasury and the Chairmen of the Commission, the Commodity Futures Trading Commission, and the Board of Governors of the Federal Reserve System. Its mandate was to determine the extent to which coordinated regulatory action was necessary to strengthen the nation's financial markets.

<sup>10</sup> See *supra* note 4.

<sup>11</sup> *Id.*

<sup>12</sup> See Letter from Todd E. Petzel, Vice President, Financial Research, Chicago Mercantile Exchange ("CME"), to Jean A. Webb, Secretary, Commodity Futures Trading Commission ("CFTC"), dated September 1, 1988. See also letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade ("CBT"), dated July 29, 1988; Michael Braude, President, Kansas City Board of Trade ("KCBT"), dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and Surveillance, New York Futures Exchange ("NYFE"), dated September 2, 1988.

significantly. The 250 point and 400 point triggers, which represented 12% and 19% of the DJIA when implemented, now represent 4.5% and 7% of the DJIA. The self-regulatory organizations and members of the industry have continued to study the circuit breaker rules and to consider the possible effects of triggering the current circuit breakers in light of the rise in the DJIA since their implementation.

While the Exchanges evaluate the need to change their circuit breaker trigger levels, the Commission believes, in the near term, it is reasonable for the Exchanges to shorten the length of trading halts. The Exchanges believe and the Commission agrees that, with advances in technology and increases in the operational capacity of the markets, the current length of the trading halts may not be necessary for market participants to become aware of and respond to significant price movements. The shorter time periods proposed by the Exchanges for halting all trades should be sufficient to allow market participants to evaluate and act on changing market conditions without unduly constraining market activities.

Moreover, the Commission believes that shortening the length of trading halts does not need to be delayed pending the resolution of other circuit breaker issues. While an examination of the broader issues of raising the circuit breaker triggers may be warranted, the trading halt periods should be shortened irrespective of the level of the trigger points. Nevertheless, the Commission encourages the Exchanges and members of the industry to continue to evaluate the trigger levels for trading halts in light of the changing circumstances of the market since 1988.

The Exchanges further propose to amend their rules to eliminate the provisions for conducting an abbreviated trading session either to permit trading to reopen before the scheduled closing or to establish new last sales prices if the 250-point trigger is reached within one hour of the scheduled close of trading for the day, or if the 400-point trigger is reached within two hours of the scheduled close of trading for the day.

With the Exchanges' current proposals, the circuit breaker rules would conform with those filed by the NYSE and the Amex.<sup>13</sup> Circuit breaker rules are a coordinated effort by the equities and futures markets to halt trading in all stocks stock options, stock index options, stock index futures, and

options on stock index futures when the DJIA reaches certain established trigger values. The Commission believes that the proposed amendments by the Exchanges would serve to maintain the coordinated approach that now exists for trading halts that are applicable during large, rapid market declines, and are therefore consistent with Section 6 of the Act<sup>14</sup> in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest.

The BSE also is proposing to renumber Section 34, Chapter II of its rules as Section 34A, and to add a new section, Section 34B. This addition would codify the BSE's practice pertaining to index arbitrage orders during periods of significant market declines and advances. The current practice of the BSE is that on any day when the DJIA has advances by 50 points or more from its closing value on the previous day, it requires all index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index<sup>15</sup> to be entered with the instruction "buy minus." If on that same day the DJIA subsequently reaches a value that is 25 points or less above the closing value on the previous trading day, this requirement would no longer apply.

Section 34B also would codify a similar practice of the BSE when the DJIA has declined by 50 points or more from its closing value on the previous trading day. Then, all index arbitrage orders to sell must be entered with the instruction "sell plus;" and if on that day the DJIA subsequently reaches a value that is 25 points or less below the closing value on the previous trading day, the requirement does not apply.

The addition of Section 34B now brings the BSE in line with the other exchanges that have already codified this practice, and will prevent orders that are prohibited in the primary market during a period of market stress from finding a safe harbor on the Exchange. Section 34B would also make the index arbitrage language contained in the Exchange's procedures for Competing Specialist in Chapter XV, Section 18, No. 14 redundant; therefore, the Commission also approves the deletion of this now redundant language.

The Commission believes that the BSE's proposal to renumber Section 34 as 34A, and add new Section 34B is consistent with the requirements of

Section 6(b)(5) of the Act<sup>16</sup> and the rules and regulations thereunder applicable to a national securities exchange in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the Federal Register. The Commission believes that the circuit breaker mechanisms should be coordinated across the U.S. equity, futures and options markets to be effective in time of market volatility. In light of the Commission's approval today of analogous proposals by the NYSE and Amex, it is important that the Exchanges' circuit breaker procedures be approved simultaneously to preserve market uniformity. Based on the above, the Commission, therefore, finds that there is good cause, consistent with Section 6(b)(5) of the Act,<sup>17</sup> to accelerate approval of the amended proposed rule changes.<sup>18</sup>

The Exchanges' proposals, as well as the new NYSE and Amex circuit breaker proposals,<sup>19</sup> will become effective on July 22, 1996.

## VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>20</sup> that proposed rule changes (SR-BSE-96-4, SR-CBOE-9627, SR-CHX-96-20, and SR-Phlx-96-12) are approved and effective on July 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,<sup>21</sup>

Margaret H. McFarland,

*Deputy Secretary.*

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<sup>13</sup> See Securities Exchange Act Release Nos. 37457 (July 19, 1996) (NYSE); 37458 (July 19, 1996) (Amex).

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> "Standard & Poor's 500 Stock Price Index" is a service mark of Standard & Poor's Corporation."

<sup>16</sup> 15 U.S.C. § 78f(b).

<sup>17</sup> *Id.*

<sup>18</sup> The Commission finds good cause to approve the BSE's changes to its Section 34 because they merely clarify current BSE practice.

<sup>19</sup> See *supra* note 13.

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</sup> 17 CFR 200.30-3(a)(12).