

Specifically, in proposing Rule 105, which liberalizes current Rule 10b-21⁴¹ government short sales in connection with a secondary offering, the SEC stated:

Since the adoption of Rule 10b-21, several additional regulatory measures have been implemented that may lessen the effects of short selling in connection with an offering. These initiatives, which include permitting passive market making during offerings of Nasdaq securities and implementing a short sale rule for the Nasdaq market, may reduce the need for Rule 105. (Footnote omitted).⁴²

The NASD believes it would be inconsistent for the SEC to not permanently approve the NASD's short sale rule and yet approve another SEC rule that liberalizes current Rule 10b-21 or eliminate it altogether because of, among other things, the presence of the NASD's short sale rule.

Lastly, the NASD believes that extending the effectiveness of the short sale rule for an additional three-month period while the SEC reviews the NASD's proposal for permanent approval of the Rule would avoid the confusion in the marketplace that would result if the Rule were to lapse for three months and then be reinstated later. Finally, the NASD believes that extending the pilot period for the short sale Rule will help to ensure that future regulatory action taken with respect to the Rule is based on a greater knowledge and understanding of the Rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

As discussed above in Section II. A., the NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The NASD believes the primary market makers of all sizes to qualify as primary market makers. Moreover, it is important to note that market makers that do not meet the standards are still permitted to remain registered market makers in the Nasdaq system. In addition, without a short sale rule for the Nasdaq market, Nasdaq would be adversely impacted in its ability to compete for listing with exchange markets.

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

Comments were neither solicited nor received.

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

The NASD requests that the Commission find good cause pursuant to Section 19(b)(2) for approving that part of the proposed rule change that requests a three month extension of the pilot program for the Rule prior to the 30th day after publication in the Federal Register. With regard to the request for permanent approval of the Rule, within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Commission's Findings and Order Granting Partial Accelerated Approval of Proposed Rule Change

The Commission finds that the proposal to extend the short sale rule for a three-month period is consistent with the Act and the rules and regulations promulgated thereunder. Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) which requires that the NASD rules be designed, among other things, to facilitate securities transactions and protect investors and the public interest. Further, the Commission finds good cause to approve a temporary three-month extension of short sale rule pilot prior to the 30th day after the date of publication of notice of filing in that accelerated approval will avoid disrupting the market while the Commission considers the NASD's request for permanent approval.

V. 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by August 26, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the portion of the proposed rule change (SR-NASD-96-30) providing a three-month extension of the NASD's pilot short sale rule is approved until November 4, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴³

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-19836 Filed 8-2-96; 8:45 am]

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[Release No. 34-37495; File No. SR-NYSE-96-16]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc.; Relating to Amendments to Percentage Order Rules 13 and 123A.30

July 30, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 28, 1996, the New York Stock Exchange, Inc. ("NYSE" or "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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The proposed rule change consists of amendments to Exchange Rules 13 and 123A.30, respectively. The filing proposes to amend Rule 13 to provide that if the percentage order is marked "last sale-cumulative volume," then the initial elected portion of the percentage order may be re-entered on the specialist's book at the prices of subsequent sales, within the overall limit on the order. The filing also

⁴¹ 17 CFR 240.10b-21.

⁴² See Securities Exchange Act Release No. 37094 (April 11, 1996), 61 FR 17108, 17126.

⁴³ 17 CFR 200.30-3(a)(12).

proposes to amend Rule 123A.30 to provide that a converted percentage order retains its status on the specialist's book unless the transaction is effected on a higher bid, or a new higher bid is made, or the percentage order was not converted at its maximum limit price.

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 self-regulatory organization 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 self-regulatory organization 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

A percentage order is a limited price order to buy or sell fifty percent of the volume of a specified stock after its entry. A percentage order is essentially a memorandum entry left with a specialist which becomes a "live" order capable of execution in one of two ways: (i) all or part of the order can be "elected" as a limit order on the specialist's book based on trades in the market; or (ii) all or part of the order can be "converted" into a limit order to make a bid or offer or to participate directly in a trade. Percentage orders were first adopted in 1972 to permit large size orders to trade along with the trend of the market.

The election process. Under the election process, as trades occur at the percentage order's limit price or better, an equal number of shares of the percentage order are "elected" and become a limit order on the specialist's book at the price of the electing sale. Most percentage orders are entered as "last sale percentage orders," meaning that they may be executed at the price at which they were elected, or at a better price. These orders may not, however, be executed at an inferior price to the electing sale even if that inferior price is still within the limit price on the order.

For example, assume that the specialist receives a last sale percentage order to purchase 5,000 shares with a limit price of 30. If a trade of 500 shares takes place at 29½, 500 shares of the

percentage order would be placed on the specialist's book as a limit order at 29½. This order could be executed at a price of 29½ or lower, but could not be executed at a higher price, even though the limit price on the percentage order was 30.

Proposed change to the election process. The Exchange is proposing to amend the definition of last sale percentage order, after their initial election, in Rule 13 to provide that such orders may be re-entered on the specialist's book at the price of subsequent transactions, within the limit price on the percentage order, if the order is marked "last sale-cumulative volume." Thus, in the example above, if there was a subsequent trade of 500 shares at 29⅝, 500 shares of a percentage order marked "last cumulative volume" would be elected on to the specialist's book at 29⅝, and the 500 shares previously entered on to the book at 29½ would be canceled and reentered at 29⅝, for a total of 1,000 shares of the percentage order on the book at 28⅝. If the order were simply marked "last sale," it would be handled as today under the current rule.

The conversion process. The second way that a percentage order can be activated into a limit order is through the conversion process. Most percentage orders contain the additional instruction "CAP-D." "CAP" is an acronym meaning "convert and parity," which instructs the specialist that he or she may convert all or a portion of the order into a limit order, either to make a bid or offer or to participate directly in a trade. "D" instructs the specialist that the order may be converted to participate in destabilizing transactions as well as stabilizing transactions. As a practical matter, CAP-D orders are viewed as a necessary adjunct to the standard election procedure because they allow the specialist greater flexibility to match the order with other buying and selling interest in the market. CAP-D orders are subject to a number of restrictions intended to minimize the specialist's discretion in handling such orders.¹

One such restriction codified in Rule 123A.30 provides that a percentage order may be converted to make a bid or offer, but if a higher bid (lower offer) is subsequently made, the converted percentage order bid or offer is treated as cancelled, subject to further conversion of the order. This means that

the bid or offer loses whatever priority it had with respect to other limit orders on the specialist's book.

For example, assume that the market is quoted 20 bid, offered at 20¼, 10,000 by 10,000, with the bid at 20 representing 10,000 shares of a converted percentage order. Under the current rule, if the specialist then receives an order to buy 5,000 shares at 20, and an order to buy 200 shares at 20⅛, when the specialist changes the quotation to 20⅛-20¼, 200 by 10,000, the converted percentage order bid of 20 for 10,000 is cancelled, and the 5,000 share order now has priority on the specialist's book at 20. If a transaction took place at 20⅛, and the quotation reverted to 20 bid, offered at 20¼, the percentage order, although it can be re-converted to make a bid at 20, would have lost its priority on the book.

Proposed change to the conversion process. The Exchange is proposing to amend Rule 123A.30 to allow the converted percentage order to retain its priority on the book when a higher bid (lower offer) is made. However, if a transaction is effected at that higher bid (lower offer), and a bid or offer is made that is higher (lower) than the price of such transaction, the converted percentage order would be cancelled, subject to re-conversion. The order would not be cancelled, however, regardless of subsequent trades in the market, if it was converted at its maximum limit price.²

The Exchange believes that these amendments will facilitate the ability of specialists to ensure that the elected and converted portions of percentage orders are executed along with the trend of the market.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)³ That an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. This proposed rule change will remove impediments to and perfect the mechanism of a free and open market by increasing opportunities for percentage orders' participation in the Exchange's auction wherein the elected and converted portions of percentage orders

¹ See NYSE Rule 123A.30; Securities Exchange Act Release No. 24505 (May 22, 1987), 52 FR 20484 (June 1, 1987) (order approving amendment to Rule 123A.30 permitting conversion of percentage orders on destabilizing ticks under certain restrictions).

² The Exchange is also proposing to amend Rule 123A.30 to include a provision that a specialist must document the status of a converted percentage order on the specialist's book as a limit order at the price it was converted.

³ 15 U.S.C. 78f(b)(5).

are executable along with the trend of the market.

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 written comments on the proposed rule change.

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

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date of its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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, N.W., Washington, D.C. 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, N.W., Washington, D.C. 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 No. SR-NYSE-96-16 and should be submitted by August 26, 1996.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-19835 Filed 8-2-96; 8:45 am]

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

July 30, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 31, 1996.

FOR FURTHER INFORMATION CONTACT: Helen LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6704. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted variously for swing, carryover and re-crediting unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 66268, published on December 21, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the

implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 30, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 15, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on July 31, 1996, you are directed to amend the directive dated December 15, 1995 to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
Levels in Group I	
313	2,959,342 square meters.
314	1,223,775 square meters.
315	1,929,494 square meters.
333/334/335/833/834/835.	248,718 dozen, of which not more than 129,162 dozen shall be in Categories 333/335/833/835.
336/836	58,951 dozen.
338	320,184 dozen.
339	1,341,138 dozen.
340	303,055 dozen.
341	206,188 dozen.
342	93,278 dozen.
345	62,499 dozen.
347/348/847	757,868 dozen.
350/850	68,578 dozen.
351/851	70,743 dozen.
359-C/659-C ²	356,944 kilograms.
359-V ³	129,063 kilograms.
633/634/635	566,257 dozen.
638/639/838	1,659,998 dozen.
640	127,609 dozen.
641/840	219,326 dozen.
642/842	116,769 dozen.
645/646	299,127 dozen.
647/648	551,431 dozen.
659-S ⁴	137,159 kilograms.
Group II	
400-469, as a group	1,528,982 square meters equivalent.
Sublevel in Group II	
445/446	84,030 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1995.