

manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

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

The Exchange believes the proposed rule change will impose no burden on competition.

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 if it 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-96-43 and should be submitted by August 30, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz,

Secretary.

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[Release No. 34-37520; File No. SR-NYSE-96-15]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Members' Compliance With Position and Exercise Limits for Non-NYSE Listed Options

August 2, 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 ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.¹ 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 NYSE proposes to amend NYSE Rules 704, "Position Limits," and 705, "Exercise Limits," to require NYSE members who trade non-NYSE-listed option contracts and who are not members of the exchange where the options are traded to comply with the option position and exercise limits set by the exchange where the transactions are effected.²

The text of the proposed rule change is available at the Office of the Secretary, NYSE, and at the Commission.

¹ The NYSE requested accelerated approval of the proposed rule change. See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Yvonne Fraticelli, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated July 9, 1996 ("Amendment No. 1").

² Position limits impose a ceiling on the number of option contracts in each class on the same side of the market (i.e., aggregating long calls and short puts or long puts and short calls) that can be held or written by an investor or group of investors acting in concert. Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

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

(a) Purpose

Currently, NYSE Rule 704 limits the size of options positions that opening transactions in NYSE-listed options may create. Exchange Rule 705 prohibits a member or member organization from exercising NYSE-listed option contracts in amounts that exceed the NYSE's position limits. The purpose of the proposal is to expand the scope of those position and exercise limits to include opening transactions and exercises that are not dealt in on the Exchange, but that are dealt in on other options exchanges. The proposal applies to both equity options and index options.

As a result, the NYSE will gain the authority to exercise jurisdiction over its members and member organizations for activity in options that are not dealt in on the NYSE. The NYSE could thereby discipline members and member organizations for violations of position and exercise limits in option contracts, regardless of the exchange on which the contracts trade.³

The Exchange will exercise this authority only when the NYSE member or member organization is not a member of the other option exchange. That is, the proposal is intended to provide authority to discipline violations where no such authority currently exists. That authority currently is absent because (1) the NYSE's rules currently do not grant that authority to the NYSE and (2) the NYSE member or member organization that is in violation of another options exchange's rules is not a member or member organization of the other options exchange and therefore is not subject to the rules of that exchange.

³ The Commission notes that, generally, the options exchanges have adopted uniform options position and exercise limits.

⁵ 17 C.F.R. 200.30-3(a)(12) (1994).

In expanding the scope of the position and exercise limit authority, the proposal would apply the position and exercise limit rules of the options exchange on which the NYSE member or member organization effects the transaction or exercise, including the other exchange's relevant exemptions, including the other exchange's relevant exemptions, interpretations, and policies.

(b) Statutory Basis

The NYSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating 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.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change imposes 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 NYSE has not solicited, and does not intend to solicit, comment on this proposed rule change. The NYSE has not received any unsolicited written comments from members or other interested parties.

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

The NYSE has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.⁴

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) thereunder⁵ in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.

Specifically, the NYSE has noted that Exchange rules do not currently prohibit NYSE members from exceeding the position and exercise limits set by another exchange for non-NYSE listed option contracts. Thus, if the NYSE member is not a member of the exchange which lists the options, then neither the NYSE nor the exchange that limits the options is able to enforce its position and exercise limits against the NYSE member. The proposal eliminates this loophole and strengthens the Exchange's rules by requiring an NYSE member who trades non-NYSE listed option contracts on another exchange, and who is not a member of that exchange, to comply with the options position and exercise limits set by the exchange where the transactions are effected.⁶

As the Commission has noted in the past,⁷ options position and exercise limits are intended to prevent the establishment of large options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations⁸ and for corners or squeezes of the underlying market. In addition, they serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes. The proposal extends the benefits of the position and exercise limit rules to include all options transactions entered into by NYSE members.

As noted above, the proposed amendments will extend NYSE Rules 704 and 705 to apply to option contracts dealt in on any exchange (rather than only to option contracts dealt in on the NYSE) by requiring an NYSE member who effects transactions in non-NYSE-listed option contracts on another exchange, of which he or she is not a member, to comply with the position and exercise limits set by the exchange on which the transaction is effected. Such violations will be subject to disciplinary action by the Exchange pursuant to the NYSE's rules.

The Commission finds good cause for approving the proposed rule change and

Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register because the proposal is identical to approved proposals submitted by the Chicago Board Options Exchange, Inc. ("CBOE"), Philadelphia Stock Exchange, Inc. ("PHLX"), the Pacific Stock Exchange, Inc. ("PSE"), and the American Stock Exchange, Inc. ("Amex").⁹ The CBOE and PHLX proposals were subject to the full notice and comment period and the Commission received no comments on those proposals. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the NYSE's proposal on an accelerated basis.

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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number in the caption above and should be submitted August 30, 1996.

It is therefore ordered, pursuant to Section 19() (2) of the Act,¹⁰ that the proposed rule change (File No. SR-NYSE-96-15), as amended, is approved on an accelerated basis.

⁶ In applying the position and exercise limits of another options exchange, the NYSE will also follow any applicable exemptions, interpretations, and policies of that exchange.

⁷ See, e.g., Securities Exchange Act Release No. 33283 (December 3, 1993), 58 FR 65204 (December 13, 1993) (order approving File No. SR-CBOE-93-43).

⁸ Mini-manipulation is an attempt to influence, over a relatively small range, the price movement in a stock to benefit a previously established derivatives position.

⁹ See Securities Exchange Act Release Nos. 36242 (September 18, 1995), 60 FR 49305 (September 22, 1995) (order approving File No. SR-CBOE-95-22); 36257 (September 20, 1995), 60 FR 50228 (September 28, 1995) (order approving File No. SR-PHLX-95-31); 36350 (October 6, 1995), 60 FR 53654 (October 16, 1995) (order approving File No. SR-PSE-95-17); and 36567 (December 8, 1995) 60 FR 64463 (December 15, 1995) (order partially approving File No. SR-Amex-95-35).

¹⁰ 15 U.S.C. 78s(b)(2) (1982).

⁴ See Amendment No. 1, *supra* note 1.

⁵ 15 U.S.C. 78f(b)(5) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jonathan G. Katz,
Secretary.

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[Release No. 34-37521; File No. SR-PSE-96-01]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 Thereto by the Pacific Stock Exchange, Inc. Relating to its Options Firm Quote Rule

August 2, 1996.

On January 16, 1996, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "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 its Options Firm Quote Rule (Rule 6.86, the "Rule") in order to codify some related floor policies and also to clarify certain provisions of the Rule. Notice of the proposed rule change was published for comment and appeared in the Federal Register on March 4, 1996.³ No comment letters were received on the proposal. On May 17, 1996, the Exchange filed Amendment No. 1 to the proposal.⁴ On June 27, 1996, the PSE filed Amendment No. 2 to the proposed rule change,⁵ and on July 25, 1996, the

Exchange filed Amendment No. 3 to the proposal.⁶ This order approves the PSE proposal as amended.

I. Description of the Proposal

The Exchange is proposing to modify its Options Firm Quote Rule as follows:

Order Identification

Subsection (a) of the Rule currently provides that members and member organizations who enter orders for execution on the options floor must ascertain the account origin of such orders and provide a notation of the account origin on the order ticket. The Exchange is proposing to modify this provision to provide that such members and member organizations would be required to communicate such account information to the executing member organization. Accordingly, the member or member organization entering the order must indicate to the executing member organization whether the order is for the account of a customer, firm or market maker.

The proposal would also set forth the duty of executing floor brokers to inquire personally as to the account origin of each eligible order upon receipt thereof or prior to its execution and to note such information on the order ticket.

Finally, under the proposal, the executing member organization and the clearing member organization would bear greater responsibility with respect to the proper identification of orders that are executed on behalf of non-members of the Exchange.

Commentary .05

Proposed Commentary .05 sets forth certain types of orders that are subject to the Rule and the extent to which the Rule applies to such orders. The Rule specifically addresses the treatment of

combination orders, spread orders, straddle orders and contingency orders. With respect to combination orders involving option contracts on one side of the market, market makers in a trading crowd would only be responsible for providing an aggregate of 20 contracts; however, if a combination order is for option contracts on both sides of the market, market makers must provide a depth of 20 contracts on both sides of the market.⁷ Moreover, market makers would be required to provide a depth of 20 contracts on both sides of the market for spread and straddle orders. The proposed Commentary also enumerates the types of contingency orders that are subject to the Rule, *i.e.* "minimum" orders of 20 contracts or less, market not-held, limit not-held and delta orders that can be executed immediately, and all-or-none orders of twenty contracts or less.

The proposed Commentary also provides that in executing contingency orders pursuant to the Rule, the order ticket must be time stamped upon being taken into the trading crowd. Finally, the proposed Commentary states that such orders are entitled to 20 contracts on the market disseminated at that time.

Commentary .06

Proposed Commentary .06 provides that market makers must be afforded a reasonable opportunity to update their disseminated markets for the execution of consecutive eligible customer orders in options on the same underlying security. The Commentary further provides that such orders shall be executed on a time priority basis so that the order with the earliest time stamp will receive a guaranteed fill of 20 contracts.

Commentary .07

Proposed Commentary .07 provides that if a floor broker can immediately execute a limit order at the disseminated market price, but instead, the floor broker quotes a better price than the limit price stipulated on the order ticket, and the market then changes so that the order can no longer be executed at the disseminated market price, the floor broker shall be held liable to the customer for the execution of a minimum of 20 contracts at the original disseminated price.⁸

Commentary .08

Proposed Commentary .08 designates those market makers to whom the order book official may, pursuant to current

¹¹ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4

³ See Securities Exchange Act Release No. 36883 (February 23, 1996), 61 FR 8321 (March 4, 1996).

⁴ See letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to James T. McHale, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated May 16, 1996 ("Amendment No. 1"). Amendment No. 3 supersedes and replaces Amendment No. 1.

⁵ In Amendment No. 2 the Exchange revised proposed Commentary .05(a) to make clear that with respect to combination orders involving option contracts on one side of the market, market makers in a trading crowd would only be responsible for providing an aggregate of 20 contracts; however, if a combination order is for option contracts on both sides of the market, market makers must provide a depth of 20 contracts on both sides of the market. Additionally, the Exchange revised proposed Commentary .07 to clarify that a floor broker, who has the opportunity to execute a limit order at the disseminated market price, but instead quotes a better price than the limit price stipulated on the order ticket and the market then changes so that the order can no longer be executed at the original disseminated price, will be held liable for the execution of a minimum of 20 contracts at the original disseminated price. See letter from Michael

D. Pierson, Senior Attorney, Regulatory Policy, PSE, to James T. McHale, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated June 26, 1996 ("Amendment No. 2").

⁶ In Amendment No. 3 the Exchange clarified a potential ambiguity in proposed Commentary .05(c) to Rule 6.86 by deleting a sentence which specified certain types of contingency orders to which Rule 6.86 did not apply. In addition, Amendment No. 3 deletes a sentence in proposed Commentary .05(c) which stated that the list of types of contingency orders to which the Rule applies would not be considered exhaustive. Finally, in Amendment No. 3 the PSE further clarifies proposed Commentary .07 to provide that the executing floor broker will be held liable to *his customer* for a minimum of 20 contracts at the original disseminated price, if the floor broker had the opportunity to execute the customer's limit order, but instead made a failed attempt to improve the execution. See letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to James T. McHale, Attorney, OMS, Division, Commission, dated May 16, 1996 ("Amendment No. 3").

⁷ See Amendment No. 2, *supra* note 5.

⁸ See Amendment Nos. 2 and 3, *supra*, notes 5 and 6, respectively.