

of the CBOE. The CBOE members contended that the proposed \$10 million net capital requirement for certain JBO clearing firms, whose primary business consists of clearance of options market makers' accounts, was too high.

As a result of discussions with other self-regulatory organizations such as the CBOE, as well as deliberations among the JBO subcommittee of the Exchange's Rule 431 Committee, the Exchange seeks to lower the proposed net capital requirement for member organizations carrying and clearing, or carrying JBO accounts from \$10 million to \$7 million. This modification is consistent with the revisions which the CBOE recently proposed for its JBO filing.¹⁰ Under Amendment No. 2, the \$7 million net capital requirement only would be available to member organizations whose primary business consists of the clearance of options market maker accounts. Consequently, the proposal's \$25 million tentative net capital requirement would continue to apply to all other member organizations carrying and clearing, or carrying JBO accounts. The Exchange believes the revised level of \$7 million will continue to require capital sufficient to satisfy safety and soundness concerns.

Amendment No. 2 also includes new provisions relating to member organizations that carry and clear, or carry JBO accounts that will require: (i) prompt written notification to the Exchange when such a member organization's tentative net capital or net capital, whichever may apply, falls below prescribed standards; and (ii) that appropriate action be taken, within three business days, to resolve any such capital deficiency. Failure to correct such deficiencies within the allotted period will preclude the JBO carrying and clearing, or carrying member organization from accepting new transactions pursuant to the JBO arrangement. The Exchange believes these requirements are consistent with provisions of the Commission's net capital rule that generally deal with net capital deficiencies.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Act¹¹ in that it is designed to promote just and equitable principles of trade, and protect the investing public. The Exchange further believes the proposed rule change is consistent with the rules and regulations of the Board of

Governors of the Federal Reserve System that are intended to prevent the excessive use of credit for the purchase or carrying of securities, in accordance with Section 7(a) of the Act.¹²

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

The Exchange believes the proposed rule change will not 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 did not solicit or receive written comments with respect to the proposed rule change. The Exchange notes, however, that the CBOE received written comments regarding its companion JBO filing. Item II(A)(1)(c) above includes the Exchange's response to the issues raised in the comment letters submitted to the CBOE.

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

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 Exchange 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 Amendment Nos. 1 and 2, including whether the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the Act. 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 submissions, 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 persons, 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 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-97-28 and should be submitted by December 28, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40712; File No. SR-NYSE-98-30]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Customer Account Transfer Contracts

November 25, 1998.

I. Introduction

On September 28, 1998, the New York Stock Exchange, Inc. ("NYSE" 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 relating to customer account transfer contracts.

The proposed rule change was published for comment in the **Federal Register** on October 27, 1998.³ One comment in support of the proposed rule change was received. This order approves the proposal.

II. Description of the Proposal

NYSE proposes to amend Exchange Rule 412, which regulates the transfer of customer accounts from one member organization to another, and the rule's stated interpretation. Transfers of customer accounts are generally effected through the Automated Account Transfer Service ("ACATS") which is administered by the National Securities

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 40571 (October 19, 1998), 63 FR 57347 (File No. SR-NYSE-98-30).

¹⁰ *Id.*

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78g(a).

Clearing Corporation ("NSCC"). The ACATS system is currently being redesigned to allow for quicker and more efficient transfers of customer accounts. The purpose of the proposed rule change is to amend Rule 412 to reflect these upgrades.

Currently, the ACATS system and Exchange Rule 412 provide for a seven day cycle to transfer a customer account. The proposed amendments would reduce this cycle to six days by streamlining the asset review portion of the transfer period from two days to one day. It is anticipated that ACATS system changes will become operational on January 25, 1999. Therefore, the Exchange represents that the proposed rule change will become effective in accordance with the effective date of the ACATS system changes.

In addition, the Exchange proposes to amend an interpretation to Exchange Rule 412 to eliminate one of the enumerated reasons for which a member organization may reject or take exception to an account transfer request. The Proposed amendment deletes the "Account Type Mismatch" reject code, due to its limited usefulness arising from inconsistencies among member organizations in defining account types.

III. Discussion

After careful review, 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, with the requirements of Section 6(b).⁴ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)⁵ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.⁶ The proposed amendment does this by reducing the time allowed for transferring customer accounts.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSE-98-30) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-32330 Filed 12-3-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40710; File No. SR-PCX-97-49]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 1 to Proposed Rule Change by the Pacific Exchange, Inc. Relating to Capital and Margin Requirements for Joint Back Office Arrangements

November 25, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 8, 1998, the Pacific Exchange, Inc. ("Exchange" or "PCX") filed with the Securities and Exchange Commission ("Commission") Amendment No. 1 to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change from interested persons.

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

The Exchange seeks to amend its proposed rule change regarding Joint Back Office ("JBO") arrangements to: (i) reduce the net capital requirements for certain member organizations carrying and clearing, or carrying JBO accounts from \$10 million to \$7 million; (ii) add notification requirements for JBO clearing firms in the event their tentative net capital or net capital fall below prescribed levels; and (iii) require member organizations carrying JBO accounts to margin such accounts in accordance with customer margin requirements if the JBO participants fail to maintain minimum liquidating equity of \$1 million in their JBO accounts for more than five business days.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Exchange 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 Exchange 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. *Background.* On December 18, 1997, the Exchange filed with the Commission a proposal establishing margin and net capital requirements for member organizations that carry and clear, or carry JBO accounts. Notice of the Exchange's proposal was issued on February 18, 1998.³ Under the proposal, a member organization that carries and clears, or carries JBO accounts would be required to maintain minimum tentative net capital of \$25 million, except that a member organization whose primary business consisted of the clearance of options market-maker accounts could carry JBO accounts provided that it maintained minimum net capital of \$10 million.

The Exchange notes that its JBO rule filing is similar to the JBO rule filings submitted to the Commission by the New York Stock Exchange ("NYSE") and the Chicago Board Options Exchange ("CBOE").⁴ The NYSE and CBOE recently submitted amendments to their JBO rule filings which propose to reduce the capital requirements for JBO clearing firms from \$10 million to \$7 million; add notification requirements for JBO clearing firms in the event their tentative net capital or net capital falls below prescribed levels; and require the application of customer margin requirements to JBO participants if such participants do not maintain

³ See Securities Exchange Act Release No. 39680 (Feb. 18, 1998), 63 FR 9622 (Feb. 25, 1998).

⁴ The NYSE's JBO filing, SR-NYSE-97-28, was filed with the Commission on October 2, 1997, and notice of its filing was issued on December 29, 1997. See Securities Exchange Act Release No. 39497 (Dec. 29, 1997), 63 FR 899 (Jan. 7, 1998). The CBOE's JBO filing, SR-CBOE-97-58, was filed with the Commission on October 27, 1997, and notice of its filing was issued on December 10, 1997. See Securities Exchange Act Release No. 39418 (Dec. 10, 1997), 62 FR 66154 (Dec. 17, 1997).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).