

may be examined at the places specified in Item IV below. The NASD 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

The purpose of the rule change is to effectuate Nasdaq's periodic reclassification of NNM securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through SOES and the minimum quote size requirements for Nasdaq market makers in NNM securities. Nasdaq periodically reviews the SOES tier size applicable to each NNM security to determine if the trading characteristics of the issue have changed so as to warrant a tier size adjustment. Such a review was conducted using data as of March 31, 1996, pursuant to the following established criteria:¹

NNM securities with an average daily non-block volume of 3,000 shares or more a day, a bid price less than or equal to \$100, and three or more market makers are subject to a minimum quotation size requirement of 1,000 shares and a maximum SOES order size of 1,000 shares;

NNM securities with an average daily non-block volume of 1,000 shares or more a day, a bid price less than or equal to \$150, and two or more market makers are subject to a minimum quotation size requirement of 500 shares and a maximum SOES order size of 500 shares; and

NNM securities with an average daily non-block volume of less than 1,000 shares a day, a bid price less than or equal to \$250, and less than two market makers are subject to a minimum quotation size requirement of 200 shares and a maximum SOES order size of 200 shares.

Pursuant to the application of this classification criteria, 728 NNM securities will be reclassified effective July 1, 1996. These 728 NNM securities are set out in the NASD's *Notice To Members 96-40* (June 1996).²

¹ The classification criteria is set forth in NASD Rule 4613(a)(2) and the footnote to NASD Rule 4710(g).

² Notwithstanding the NASD's announcement in *NTM 96-40* that Microsoft and U.S. Robotics are scheduled to be moved to the 500-share SOES tier size level, the NASD has determined that The Nasdaq Stock Market will keep these stocks in the 1,000-share tier level. Even though these stocks fall within the 500-share tier level, pursuant to the criteria for determining tier levels, the NASD has determined to keep these stocks at the 1,000-share level because of their large market capitalization and high trading volume. See, letter to Howard L. Kramer, Associate Director, Office of Market Supervision, Division of Market Regulation, SEC,

In ranking NNM securities pursuant to the established classification criteria, Nasdaq followed the changes dictated by the criteria with two exceptions. First, an issue was not moved more than one tier size level. For example, if an issue was previously categorized in the 1,000-share tier size, it would not be permitted to move to the 200-share tier even if the reclassification criteria showed that such a move was warranted.

In adopting this policy, Nasdaq was attempting to maintain adequate public investor access to the market for issues in which the tier size level decreased and to help ensure the ongoing participation of market makers in SOES for issues in which the tier size level increased. Second, for securities priced below \$1 where the reranking called for a reduction in tier size, the tier size was not reduced.

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires, among other things, that the rules of the NASD governing the operation of The Nasdaq Stock Market be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. The NASD believes that the reclassification of NNM securities within SOES tier size levels and minimum quotation size levels will further these objectives by providing an efficient mechanism for small, retail investors to execute their orders on Nasdaq and by providing investors with the assurance that they can effect trades up to a certain size at the best prices quoted on Nasdaq.

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

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.

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

Written comments were neither solicited nor received.

from Thomas R. Gira, Associate General Counsel, The Nasdaq Stock Market, Inc., dated June 25, 1996.

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

The proposed rule change has become effective immediately pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that the reranking of NNM securities into appropriate SOES tier sizes was done pursuant to the NASD's stated policy and practice with respect to the administration and enforcement of two existing NASD rules. Further, in the SOES Tier Size Order, the Commission requested that the NASD provide this information as an interpretation of an existing NASD rule under Section 19(b)(3)(A) of the Act.

At any time within sixty (60) days of the filing of a proposed rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 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 July 24, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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³ 17 CFR 200.30-3(a)(12) (1989).

[Release No. 34-37365; File No. SR-PSE-96-17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Joint Accounts

June 25, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 11, 1996, the Pacific Stock Exchange Incorporated ("PSE" 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 PSE proposes to amend its rules to eliminate a provision that prohibits members who are registered to trade for the same joint account from having overlapping primary appointment zones on the Options Floor.

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

PSE Rule 6.35 currently provides that each market maker shall be assigned a Primary Appointment Zone comprising a minimum of one trading post up to a maximum of six contiguous trading posts.² Under Commentary .03 to PSE

Rule 6.35, at least 75% of the trading activity of a market maker (measured in terms of contract volume per quarter) shall be in classes of option contracts to which his or her primary appointment extends.³

With regard to joint accounts, PSE Rule 6.84, Commentary .05 currently provides that the primary appointment of a market maker may not include trading posts which constitute the primary appointment of any market maker with whom he or she has a joint account. The rule further provides that, for the purposes of evaluating market maker performance in accordance with PSE Rule 6.37, Commentary .04, contract volume in the joint account will be assigned to the participants who effected the transactions for the joint account, under the same guidelines as if they effected the transactions for their own account.

The Exchange proposes to eliminate the provision in Commentary .05 to Rule 6.84 that prohibits joint account participants from having overlapping primary appointment zones. The Exchange believes that this rule places an unnecessary burden on member firms with joint accounts that may desire to have overlapping primary zones for their market makers in order to allow for continuous coverage when participant market makers are temporarily absent from the floor due to illness or vacation. The Exchange also believes that the current procedure of requiring substitute market makers to seek an exemption from Rule 6.35 (or alternatively to assure that the volume of their trading outside their primary zone does not exceed 25% of their total volume), is not efficient. Moreover, the Exchange believes that Rule 6.40, Financial Arrangements of Market Makers, which prohibits participants in the same joint account from trading in the same trading crowd at the same time, will address any concerns that joint account participants may attempt to dominate unfairly the market in a particular option issue or option series.⁴

Finally, the Exchange proposes, for purposes of greater clarity, to eliminate the cross-reference to Rule 6.37, Commentary .04 that is contained in Rule 6.84, Commentary .05 and to replace it with a cross reference to Rule 6.35, Commentary .03.

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section

6(b)(5), in particular, in that it is designed to facilitate transactions in securities, to remove impediments to a free and open market, and to promote just and equitable principles of trade.

(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

Written comments on the proposed rule change were neither solicited nor received.

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 self-regulatory organization 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. 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 in 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

¹ 15 U.S.C. 78s(b)(1) (1988).

² Previously, market makers were restricted to Primary Appointment Zones comprising one trading post or two contiguous trading posts. See Securities Exchange Act Release No. 36370 (October 13, 1995), 60 FR 54273 (approving increase from two to six in the maximum number of trading posts

that may be included in each market maker's Primary Appointment Zone).

³ PSE Rule 6.35, Commentary .03 provides an exception for unusual circumstances.

⁴ See also File No. SR-PSE-96-12 (proposal to amend Rule 6.40).

refer to File No. SR-PSE-96-17 and should be submitted by July 24, 1996.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37373; File No. SR-PSE-96-22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Establishment of a \$50 Fee for One-Day Transfers of Membership

June 26, 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 21, 1996, the Pacific Stock Exchange, Inc. ("PSE" 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 PSE. 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

Currently, the PSE's Schedule of Rates for Exchange Services ("Schedule of Rates") provides a fee of \$100 for temporary intrafirm or interfirm transfers of membership.¹ The PSE proposes to amend the Schedule of Rates to: (1) establish a fee of \$50 for one-day intrafirm transfers of membership; (2) specify that a "temporary" transfer of membership is for a period of less than 30 days;² and (3) eliminate a reference to "interfirm" temporary transfers of membership, so that the \$100 fee for temporary membership transfers will apply solely

to temporary intrafirm transfers of membership.³

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

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 prices 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 the Statutory Basis for, the Proposed Rule Change

Purpose

The PSE proposes to adopt a \$50 fee for members who transfer their membership rights, on a one-day basis, to other members of the same firm. This change is intended to address situations where floor members are unable to be present on the trading floor for one day and need to have substitute coverage on the floor for that day. Under the proposal, members who expect to be away from the floor for one day will notify the Exchange of the proposed transfer and the Exchange will bill them \$50.

The Schedule of Rates currently provides for a fee of \$100 for "temporary" transfers of membership.⁴ That fee is intended to cover transfers of membership that last longer than one day (but less than 30 days), such as when a floor member takes a vacation. The Exchange believes that the proposed one-day intrafirm transfer fee will provide an equitable alternative to the \$100 temporary transfer fee for members who are away from the floor for just one day. In addition, the PSE notes that the proposal will address more directly situations in which a

member transfers his or her membership to another person, one a one-day basis, on more than two separate occasions during a 30-day period. In such situations, the member would be charged \$50 for each one-day transfer of membership. In addition, if a member notifies the PSE of a one-day transfer, and that member is later unable to return to the floor for a consecutive period of from two to 30 days, that member would be charged a maximum fee of \$100.

The Exchange also proposes to amend its Schedule of Rates with regard to "temporary" transfers of membership by specifying that such transfers are for a period of less than 30 days.⁵ In addition, the PSE proposes to eliminate a reference in the provision governing temporary transfers to "interfirm" transfers of membership, so that the \$100 fee will apply solely to temporary "intrafirm" transfers of membership.⁶

Statutory Basis

The PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(4), in particular, in that it provides for the equitable allocation of reasonable charges among its members.

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

The PSE 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

Written comments on the proposed rule change were neither solicited or received.

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

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears

⁵ 17 CFR 200.30-3(a)(12).

¹ Currently, PSE Rule 1.10(a), "Initial, Transfer and Processing Fees," also provides for interfirm and intrafirm transfer fees. In a separate rule filing, the PSE has proposed to delete the transfer fees from PSE Rule 1.10(a). Under that proposal, PSE Rule 1.23, "Transfer of Membership," will govern membership transfers but will not contain a fee schedule. See Securities Exchange Act Release No. 37076 (April 5, 1996), 61 FR 16152 (April 11, 1996) (notice of filing of proposed rule change for File No. SR-PSE-96-07).

² The \$100 fee for temporary membership transfers applies to transfers lasting for a consecutive period lasting from two days to less than 30 days.

³ According to the PSE, temporary transfers of membership occur only between members of the same firm, not between firms. Thus, the proposal eliminates an inaccurate reference to temporary "interfirm" transfers of membership. Telephone conversation between Michael Pierson, Senior Attorney, Market Regulation, PSE, and Yvonne Fraticelli, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on June 24, 1996.

⁴ In addition, the Schedule of Rates provides a \$250 fee for permanent intrafirm or interfirm transfers of membership.

⁵ The \$100 fee for a temporary transfer of membership was implemented in 1995. See Securities Exchange Act Release No. 35817 (September 5, 1995), 60 FR 47417 (September 12, 1995) (Notice of filing and immediate effectiveness for File No. SR-PSE-95-19).

⁶ See note 3, *supra*.