

market and only if the specialist has obtained the prior approval of a Floor Official. Under the pilot program, a specialist also may sell "long" on a zero minus tick, or by purchasing on a zero plus tick to cover a "short" position, without Floor Official approval.

Although liquidations on a zero minus or on a zero plus tick can be effected under the pilot procedures without a Floor Official's prior approval, such liquidations are still subject to the restriction that they be effected only when reasonably necessary to maintain a fair and orderly market. In addition, the specialist must maintain a fair and orderly market during the liquidation.

After the liquidation, the specialist is required to reenter the market on the opposite side of the market from the liquidating transaction to offset any imbalances between supply and demand. During any period of volatile or unusual market conditions resulting in significant price movement in a specialist's specialty stock, the specialist's re-entry into the market must reflect, at a minimum, his or her usual level of dealer participation in the specialty stock. In addition, during such periods of volatile or unusual price movements, re-entry into the market following a series of transactions must reflect a significant level of dealer participation.

In the 1994 Approval Order, the Commission requested that the Amex submit a report setting forth the criteria developed by the Exchange to determine whether any reliquifications by specialists were necessary and appropriate in connection with fair and orderly markets.<sup>12</sup> The Commission also asked, among other things, that the Exchange provide information regarding the Exchange's monitoring of liquidation transactions effected by specialists on any destabilizing tick. In both of the 1995 approval orders, the Commission requested that the Amex continue to monitor the pilot and update its report where appropriate.<sup>13</sup> In particular, the Commission asked the Amex to report any noncompliance with the Rule and the action the Amex took as a result of such noncompliance.

The Amex submitted its reports concerning the pilot program to the Commission in May 1995 and April 1996. As noted above, the Amex believes the pilot procedures appear to be working well in enabling specialists to reliquify appropriately to meet the needs of the market. After reviewing the data, the Commission agrees with the

Exchange that the pilot program generally is working well. In particular, the Commission believes the report indicates that specialists generally are entering the aftermarket after effecting liquifying transactions when appropriate.

The Commission also agrees with the Exchange's assertion that certain issues concerning the pilot program need to be revisited before permanent approval can be granted. In this regard, the Exchange should continue to emphasize the requirements of Amex Rule 170, including the necessity for Floor Official approval of specialists' purchases and sales on direct plus or minus ticks and that such transactions can only be effected if reasonably necessary for the maintenance of fair and orderly markets. In addition, where proper procedures are not followed, the Amex should take appropriate disciplinary action.<sup>14</sup>

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the Exchange proposes to continue using the identical procedures contained in the pilot program. These procedures have been published in the Federal Register on several occasions for the full comment period,<sup>15</sup> and no comments have been received. Furthermore, the Commission approved a similar rule change for the NYSE also without receiving comments on the proposal.<sup>16</sup> For these reasons, the Commission finds that accelerating approval of the proposed rule change is consistent with Section 19(b)(2) of the Act.<sup>17</sup> Any requests to modify this pilot program, to extend its effectiveness, or to seek permanent approval for the pilot program also should include an update on the disciplinary actions taken for violations of these procedures.

#### V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-Amex-96-

<sup>14</sup> Failure to obtain the required Floor Official approval when establishing, increasing, or liquidating a position should be enforced by the Exchange through its Minor Rule Violation Fine System unless more serious action is warranted through full disciplinary proceedings. See Amex Rule 590.

<sup>15</sup> See 1994 Approval Order, *supra* note 11; April 1995 Approval Order, *supra* note 11; July 1995 Approval Order, *supra* note 11; July 1996 Approval Order, *supra* note 4.

<sup>16</sup> See Securities Exchange Act Release No. 31797 (Jan. 29, 1993), 58 FR 7277 (approving File No. SR-NYSE-92-20).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

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

33) is approved for a pilot period ending on November 15, 1996.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-24702 Filed 9-25-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37703; File No. SR-PSE-96-32]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to Its Rules on Telephone Solicitations

September 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 August 27, 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 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 Pacific Stock Exchange Incorporated ("PSE" or "Exchange") proposes to adopt new Rule 9.20(b) and to add a commentary thereunder with respect to the meaning and administration of proposed Rule 9.20(b). Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

#### Rule 9

##### *Conducting Business With the Public*

[Conduct of Accounts]

\* \* \* \* \*

#### ¶ 5905 Transactions for Public Customers

Rule 9.20(a)—No change.

##### *Telephone Solicitations*

*Rule 9.20(b). Each member and member organization shall make and maintain a centralized list of persons who have informed the member, member organization of any employee thereof, that they do not wish to receive telephone solicitations, and shall refrain from engaging in telephone solicitations of persons named on that list.*

<sup>19</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>12</sup> See 1994 Approval Order, *supra* note 11.

<sup>13</sup> See April 1995 Approval Order and July 1995 Approval Order, *supra* note 11.

*Commentary:*

.01 *Members and member organizations that engage in telephone solicitation to market their products and services ("telemarketing" or "cold-calling") are subject to the requirements of the rules of the Federal Communications Commission and the Securities and Exchange Commission relating to telemarketing practices and the rights of telephone users. This includes, but is not limited to, the requirement to make and maintain a list of persons who do not want to receive telephone solicitations (a "do-not-call" list).*

## 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

The purpose of the proposed rule change is to: (i) Adopt Rule 9.20(b) requiring members and member organizations that engage in telephone solicitations to maintain a centralized list of persons who do not wish to receive telephone solicitations, and to refrain from making telephone solicitations to persons named on such list; and (ii) Set forth Commentary .01 concerning the meaning and administration of proposed Rule 9.20(b) with respect to compliance with Federal Communications Commission ("FCC") and Commission rules relating to telemarketing practices.<sup>3</sup>

In 1994, an industry Task Force, comprised of representatives from industry regulatory and self-regulatory organizations, was formed to review broker-dealer telemarketing practices and compliance with the Telephone Consumer Protection Act of 1991 ("TCPA"), as well as with the FCC rules and regulations which implemented that law. The TCPA and FCC rules address telemarketing practices and the rights of telephone consumers. One of the TCPA's requirements is that

businesses, including broker-dealers, that make telephone solicitations to residential telephone subscribers institute written policies and have procedures in place for maintaining "do-not-call" lists. As recommended by the Task Force, proposed Rule 9.20(b) implements this requirement by obligating PSE members to make and maintain a centralized list of person who have informed the member that they do not wish to receive telephone solicitations.

The proposed Interpretation to Rule 9.20(b) reminds members and member organizations that they are subject to compliance with the requirements of the relevant rules of the FCC and the Commission relating to telemarketing practices and the rights of telephone consumers.

#### 2. Statutory Basis

The proposed rule change 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 promote just and equitable principles of trade and to protect investors and the public interest.

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

The PSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were either solicited or received.

## 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 submission 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-PSE-96-32 and should be submitted by October 17, 1996.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-24700 Filed 9-25-96; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics; Agency Information Collection; Activity Under OMB Review; Submission of Audit Reports

#### ACTION: Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, Public Law 104-13, the Bureau of Transportation Statistics (BTS) invites the general public, industry and other Federal Agencies to comment on the continuing need and usefulness of BTS collecting independent audited financial reports from U.S. certificated air carriers. Carriers not having an annual audit must file a statement that no such audit has been performed. In lieu of the audit report, the Department will accept the annual report submitted to the stockholders. Comments are requested concerning whether the audited reports are needed by DOT as (a) a means to monitor an air carriers continuing fitness, (b) reference material used by analysts in examining foreign route cases, (c) reference material used by analysts in examining proposed acquisitions, mergers, and consolidations, (d) a means whereby the Department sends a copy of the report to International Civil Aviation Organization (ICAO) in fulfillment of a U.S. treaty obligation, (e) corroboration

<sup>3</sup>The PSE notes that it intends to include this Commentary in a Circular that will be distributed to members and member organizations.