

currency options⁴ and has replaced its preliminary and final processing procedure with a single processing procedure for currency options. Furthermore, OCC clearing members have requested that OCC lift the restriction with respect to currency options because their non-U.S. customers have expressed a desire to be allowed to submit exercises on Thursday due to time zone differences with the United States.

II. Discussion

Section 17A(b)(3)(F) of the Act⁵ requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes the proposed rule change is consistent with OCC's obligations under the Act because the extra time to process transactions previously afforded by Rule 801(c) (*i.e.*, exercise restrictions) is no longer necessary for currency options because of OCC's single cycle expiration processing procedures and because currency options expire on Friday instead of Saturday. Therefore, by permitting the currency options to be exercised on Thursday by U.S. and non-U.S. customers of OCC participants and by removing an unnecessary OCC clearance and settlement procedure, the prompt and accurate clearance and settlement of securities transactions should be enhanced.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-96-08) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

⁴ For a completion description of the conversion of the expiration date for all standardized currency options from Saturday to Friday, refer to Securities Exchange Act Release Nos. 32458 (June 11, 1993), [File No. SR-OCC-93-09] (notice of filing and order granting accelerated approval on a temporary basis of a proposed rule change that changed the expiration day for American-style foreign currency options from Saturday to Friday) and 38800 (July 14, 1993), [File No. SR-OCC-93-15] (order granting permanent approval on an accelerated basis of a proposed rule change that changed the expiration day for American-style foreign currency options and cross-rate foreign currency options from Saturday to Friday).

⁵ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

⁶ 17 CFR 200.30-3(a)(12) (1996).

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-37874; File No. SR-PSE-96-38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange Relating to Transaction Fees

October 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 15, 1996, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 hereby is proposing to adopt a new charge applicable to Lead Market Makers ("LMMs") who participate in the Exchange's LMM Book Pilot Program.

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 PSE 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 PSE 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

On March 29, 1996, the Exchange filed a proposal with the Commission to adopt a pilot program under which a limited number of LMMs would be able to assume operational responsibility for the options public limit order book ("Book") in a limited number of issues

("Book Pilot Program").² The Commission approved the Book Pilot Program as a one year pilot program on October 11, 1996.³ Under the Book Pilot Program, the designated LMMs manage the Book function, take responsibility for trading disputes and errors, set rates for book execution, and pay the Exchange a fee for staffing and services. The Book Pilot Program has been implemented on a limited basis, and will involve no more than three LMMs and/or forty option symbols during the one year pilot phase. During the pilot phase, the Exchange is providing staffing to assist the LMM in the management of the Book function.

The Exchange is now proposing to amend its Schedule of Rates to establish a staffing charge to LMMs who participate in the Book Pilot Program. The proposed charge is \$.50 per contract for each contract executed by the Book under the Book Pilot Program. LMMs would be subject to a minimum monthly charge of \$200 and a maximum monthly charge of \$16,000 for all issues in which the LMM is participating in the Book Pilot Program.

The proposed charge is intended to cover the Exchange's cost of providing staff who will assist the LMM in operating the Book during the Book Pilot Program.

The Exchange believes that the proposed rule change is consistent with Section 6⁴ of the Act in general and with Section 6(b)(4)⁵ in particular in that it provides for the equitable allocation of reasonable charges among its members and persons using its facilities.

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 unnecessary or inappropriate 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 with respect to the proposed rule change.

² Securities Exchange Act Release No. 37335 (June 19, 1996), 61 FR 33568.

³ Securities Exchange Act Release No. 37810 (October 11, 1996).

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4).

¹ 15 U.S.C. 78s(b)(1).

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder.⁶ At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such 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, 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-96-38 and should be submitted by November 22, 1996.

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

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-37869; File No. SR-PTC-96-04]

Self-Regulatory Organizations; Participants Trust Company; Order Approving a Proposed Rule Change Relating to the Elimination of Prefunding Requirements for Intraday Free Retransfers

October 25, 1996.

On July 2, 1996, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-PTC-96-04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ to eliminate prefunding requirements for intraday free retransfers. Notice of the proposal was published in the Federal Register on August 12, 1996.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change amends PTC's rules to eliminate the requirement that participants must have cash on deposit ("optional deposits") with PTC equal to the original contract value for securities that are received the same day versus payment prior to making an intraday free redelivery of such securities. These optional deposits are commonly referred to as "prefundings."

The requirement that participants prefund intraday free redeliveries was added to PTC's rules by PTC's predecessor, MBS Clearing Corporation ("MBSCC").³ The purpose of the prefunding requirement was to support the original deliverer's security interest ("DSI") and the default provisions which permitted PTC to reverse (*i.e.*, unwind) securities deliveries to achieve settlement, both of which were added to PTC's rules at the same time.⁴ Both the

DSI and the unwind procedures subsequently have been eliminated from PTC's rules and have been replaced with the participant's intraday collateral lien ("PICL").⁵

The PICL, which can be exercised only if PTC is insolvent and fails to achieve settlement, is granted to those participants with a net credit balance owed to them by PTC. Participants with a net credit balance have a pro rata interest in a common pool of collateral that consists of securities held in transfer accounts (*i.e.*, intraday deliveries versus payment) for which settlement has not yet occurred, payments made by participants to satisfy net debit balances owed to PTC, and prefunding payments made to support intraday free redeliveries of securities from transfer accounts.

Prefunding intraday free redeliveries can impose a substantial burden on participants. For example, if a participant receives a security in a transaction versus payment through PTC and thereafter redelivers it free, such participant usually will be receiving payment for the free redelivery outside of PTC. Although the participant must have sufficient Net Free Equity ("NFE")⁶ for PTC to process the transaction, the participant may not have the cash available until after the funds are received from the party receiving the free redelivery outside of PTC. In addition, the participant may be in a net credit position at PTC when cash prefunding is required as a result of other transactions which are processed through its account.

II. Discussion

Section 17A(b)(3)(F)⁷ of the Act requires that the rules of a clearing

thereafter redelivered free from a transfer account, the secured party would lose its collateral unless prefunding served as proceeds of that collateral. Accordingly, participants that made a free delivery of securities subject to a DSI were required to have cash at least equal to the original contract value of the securities in the form of an optional deposit to the participants fund.

⁵ For a more complete discussion of PTC's reasons for removing the DSI and the unwind procedures, refer to Securities Exchange Act Release No. 34701 (September 22, 1994), 59 FR 49730 [File No. SR-PTC-94-03] (order approving proposed rule change).

⁶ NFE for a participant's account consists of, among other things, the cash balances in the participant's account, the market value of securities, net of applicable margin in the participant's account or associated transfer account, a portion of the participant's mandatory deposit to the participants fund, and the participant's optional deposits to the participants fund including prefunding. Additional components of NFE not relevant to this analysis include reserve on gain, which operates to reduce NFE in certain transactions, and excess proprietary NFE, a component of supplemental processing collateral.

⁷ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Securities Exchange Act Release No. 37523 (August 5, 1996), 61 FR 41816.

³ In 1988, MBSCC proposed a rule change to require its participants to prefund intraday free transfers. Securities Exchange Act Release No. 26101 (September 22, 1988), 53 FR 37895 [File No. SR-MBS-88-14] (notice of filing of proposed rule change). Subsequently, the order granting PTC's registration as a clearing agency incorporated the proposed rule change stating that PTC's rules were essentially identical to MBSCC's rules including the most recently proposed rule changes. Securities Exchange Act Release No. 26671 (March 31, 1989), 54 FR 13266, [File No. 600-25] (order granting registration as a clearing agency and statement of reasons).

⁴ PTC's rules originally provided that securities delivered versus payment (*i.e.*, held in a participant's transfer account) were held by PTC pending settlement subject to the DSI granted to the original delivering participant. If securities were

⁶ 15 U.S.C. 78s(b)(3)(A) and 17 CFR 19b-4(e).