

would assist an investor in deciding whether to invest in that fund; (ii) rule 498 under the Securities Act and the Investment Company Act, which would permit investors to buy mutual fund shares based on a summary document, or profile, that would provide key information about a mutual fund; and (iii) rule 35d-1 under the Investment Company Act, which would require mutual funds and other registered investment companies with names suggesting that the company focuses on a particular type of investment (e.g., a fund that calls itself the ABC Stock Fund, the XYZ Bond Fund, or the 123 Government Fund) to invest at least 80% of its assets in the type of investment suggested by its name. For further information please contact: Elizabeth R. Krentzman or Kathleen K. Clarke, (202) 942-0721.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: February 20, 1997.

Jonathan G. Katz,

Secretary.

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[Release No. 34-38293; File No. SR-PSE-96-42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to an Amendment to the Minor Rule Plan and the Adoption of a Forum Fee for Minor Rule Plan Appeals

February 14, 1997.

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 25, 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. On October 26, 1996, PSE submitted an amendment that clarifies certain aspects of the proposed rule change.² 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 Exchange is proposing to amend its rules to adopt a forum fee that may be imposed when a Member or Member Organization appeals a finding of a Minor Rule Plan ("MRP") violation, and the review panel affirms the initial finding of a violation. The Exchange also is proposing to amend its MRP to include PSE Rule 6.87(c), which prohibits the dividing up of an option order to make its parts eligible for entry into Auto-Ex. The text of the proposed rule change is available at the Exchange 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 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 Exchange is proposing to adopt a new subsection (5) to PSE Rule 10.11(d) to provide as follows: If, after a hearing or review on the papers pursuant to subsection (d) of PSE Rule 10.11,³ a panel appointed by the pertinent committee determines that a Member or Member Organization has violated one or more Exchange rules, as alleged, that panel: (i) May impose any one or more of the disciplinary sanctions authorized by the Exchange's Constitution and Rules and (ii) shall impose a forum fee against the person charged in the amount of two hundred fifty dollars (\$250) if the determination was reached based on a review of the papers, or in the amount of five hundred dollars (\$500) if a hearing was conducted. In the event that the Panel determines that a Member or Member Organization has violated one or more Exchange rules, as

alleged, and the sole disciplinary sanction imposed by the pertinent committee for such rule violation(s) is a fine that is less than the total fine initially imposed by the Exchange for the subject violation(s), the Committee has the discretion to waive the imposition of a forum fee.⁴ The Exchange believes this fee is necessary to, among other things, help offset the costs associated with certain appeals involving MRP violations.

The Exchange also is proposing to amend its MRP,⁵ which provides that the Exchange may impose a fine not to exceed \$5,000 on any member, member organization, or person associated with a member organization for any violation of an Exchange rule that has been deemed to be minor in nature and approved by the Commission for inclusion in the MRP. PSE Rule 10.13, subsection (h)-(j), sets forth the specific Exchange rules deemed to be minor in nature.

Specifically, the Exchange is proposing to add the following violation to the section of the MRP relating to Options Floor Decorum and Minor Trading Rule Violations: "Dividing up an order to make its parts eligible for entry into Auto-Ex (Rule 6.87(c))" (with recommended fines of \$2,500, \$3,750 and \$5,000 for first, second, and third violations). The Exchange believes that violations of Rule 6.87(c) are objective in nature and easily verifiable and, therefore, appropriate to include this rule in the MRP.⁶ The Exchange also

⁴ The provisions of proposed Rule 10.11(d) (5) are essentially the same as Rule 17.50(d) (2) of the Chicago Board Options Exchange ("CBOE"), except that the proposed PSE forum fees are higher than those of the CBOE.

⁵ Rule 19d-1(c) (2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for the summary discipline and abbreviated reporting of minor rule violations by exchange members and member organizations. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (approving amendments to paragraph (c) (2) of Rule 19d-1 under the Act). The PSE's MRP was approved by the Commission in 1985. See Securities Exchange Act Release No. 22654 (Nov. 21, 1985), 50 FR 48853 (approving File No. SR-PSE-85-24). In 1993, the Exchange amended its MRP and adopted detailed procedures relating to the adjudication of minor rule violations. See Securities Exchange Act Release No. 32510 (June 24, 1993), 58 FR 35491. Thereafter, the Exchange has modified its MRP several times. See Securities Exchange Act Release Nos. 34322 (July 6, 1994), 59 FR 35958; 35144 (Dec. 23, 1994), 59 FR 67743 (Dec. 30, 1994); 36622 (Dec. 21, 1995), 60 FR 67384 (Dec. 29, 1995); 37886 (Oct. 29, 1996), 61 FR 37886 (approving File No. SR-PSE-96-26). See also Securities Exchange Act Release No. 37799 (Oct. 9, 1996), 61 FR 54479 (publishing File No. SR-PSE-96-30, proposed additions to the MRP, for comment).

⁶ For example, an investigation will reveal that a customer's original order, as represented on an "upstairs" trading ticket, was for a number of option contracts that was greater than ten, but

¹ 15 U.S.C. 78s(b) (1).

² Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Ivette López, Assistant Director, Division of Market Regulation, SEC ("Amendment No. 1").

³ PSE Rule 10.11, entitled "Appeal of Floor Citations and Minor Rule Plan Sanctions," sets forth the procedures that apply when a member or member organization appeals a sanction imposed in connection with a floor citation or the MRP. See PSE Rules 10.11 and 10.13.

notes that the recommended fine levels being proposed are comparable to the fines that the Exchange has imposed previously for violations of Rule 6.87(c).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) ⁷ of the Act in general and furthers the objectives of Section 6(b)(5) ⁸ and Section 6(b)(7) ⁹ in particular in that it is designed to promote just and equitable principles of trade, to assure that members, member organizations, and persons associated with members and member organizations are appropriately disciplined for violations of Exchange rules and, in general, to protect investors and the public interest.

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.

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, 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-96-42 and should be submitted by March 17, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-4446 Filed 2-21-97; 8:45 am]

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[Release No. 34-38286; File No. SR-CBOE-96-70]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Change Relating to the Reporting Requirements for Securities Accounts and Orders of Market-Makers and Joint Account Provisions

February 13, 1997.

I. Introduction

On November 20, 1996, the Chicago Board Options Exchange, Inc., ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder² a proposed rule change relating to the reporting requirements for securities accounts and orders of market-makers and joint account provisions. The proposed rule change was published for comment in Securities Exchange Act Release No. 38085 (December 24, 1996), 62 FR 434 (January 3, 1997). The Commission received no comments on the proposal.

II. Description of the Proposal

CBOE proposes amending Rule 8.9, regarding Securities Accounts and Orders of Market-Makers. Specifically, CBOE is amending Rule 8.9(a),

regarding the identification of accounts, to eliminate the routine submission of information by market-makers respecting non-market-maker trading accounts, or "outside accounts." Currently, Exchange market-makers are required to identify and report to the Exchange all accounts in which the market-maker may engage in stock, option and securities trading, directly or indirectly, or over which it has investment discretion. The rule in its current form is broad enough to require market-makers to report professional trading accounts held at clearing firms, as well as outside personal accounts such as brokerage accounts. The Exchange is amending the reporting requirements of Rule 8.9(a) to eliminate the routine submission of information respecting non-market-maker trading accounts, or "outside accounts." The rule change will require market-makers to report outside account information only when requested by the Exchange.

CBOE also proposes amending Rule 8.9(b), regarding the reporting of market-maker orders. Currently, each market-maker is required to report to the Exchange every order entered into by that market-maker within the specifications of the Rule. CBOE proposes amending Rule 8.9(b) to require the clearing firm that maintains the market-maker's trading account, rather than the market-maker personally, to report executed order information to the Exchange. The Exchange believes it is appropriate to limit the required order information to "executed" orders only, based upon its position that only marginal surveillance benefits are derived from gathering unexecuted order information on a routine basis.

Under the proposal, the market-maker will be held responsible for the reporting requirements only if the clearing firm is not reporting executed order information to the Exchange and/or if the Exchange has requested that the market-maker provide the information. Furthermore, the proposed rule change will clarify that this reporting requirement applies to "professional trading accounts" (*i.e.*, transactions cleared into all accounts carried for market-makers who are the subject of a clearing firm letter of guarantee issued to the Exchange pursuant to CBOE Rule 8.5).

The clearing firm thus will be the primary source for the reporting of market-maker executed order information to the Exchange. However, all firms which represent and execute market-maker orders, including order services firms as defined in Exchange Rule 6.77, will continue to be

handwritten notes will indicate that the original order has been divided up. In addition, the Exchange's time and sales report will establish that a number of sub-orders occurred sequentially on the Auto-Ex system during a relatively short period of time.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(7).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.18b-4.