

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34 39980; File No. SR-NYSE-98-02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Include Rules 392, 460.30, 80A(b), 79A.15 and 105 in Its Minor Disciplinary Fine System under Exchange Rule 476A

May 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 20, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. On March 11, 1998, the Exchange filed Amendment No. 1,² and on April 16, 1998, the Exchange filed Amendment No. 2.³ 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 proposed rule change would revise the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" by adding the

failure to comply with the provisions of Rules 392, 460.30, 80A(b), 79A.15 and 105. The Exchange believes it is appropriate to make the failure to comply with the provisions of the above-named rules subject to the possible imposition of a fine under Rule 476A procedures.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 NYSE 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 NYSE 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

Rule 476A provides that the Exchange may impose a fine, not to exceed \$5,000, or any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules.

The purpose of the Rule 476A procedure is to provide for a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under Rule 476 would be more costly and time-consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than a cautionary letter would convey. Rule 476A preserves due process rights; identifies those rule violations which may be the subject of summary fines; and includes a schedule of fines.

In SR-NYSE-84-27, which initially set forth the provisions and procedures of Rule 476A, the Exchange indicated it would amend the list of rules from time to time, as it considered appropriate, in order to phase-in the implementation of Rule 476A as experience with it was gained.

The Exchange is presently seeking approval to add to the List of Rules subject to possible imposition of fines under Rules 476A procedures, failure by members or member organizations to comply with the provisions of: (1) Rule 392 and Rule 460.30 which require notification to the Exchange by member organizations when they are participating in or engaging in certain activities related to an offering of securities listed on the Exchange; (2) Rule 80-A(b) which prohibits entry of stop orders for the remainder of any trading day on which "sidecar" procedures have been invoked; (3) Rule 79A.15 on specialists' publishing bids or offers upon receipt of limit orders; and (4) Rule 105 and its Guidelines with respect to specialists' specialty stock options transactions and the reporting of such transactions.

The purpose of the proposed change to Rule 476A is to facilitate the Exchange's ability to induce compliance with all aspects of the above-cited rules. The Exchange believes failure to comply with the requirements of these rules should be addressed with an appropriate sanction and seeks Commission approval to add violations of these requirements to the Rule 476A List so as to have a board range of regulatory responses available. The Exchange believes that this would more effectively encourage compliance by enabling a prompt, meaningful and heightened regulatory response (e.g., the issuance of a fine rather than a cautionary letter) to a minor violation of a rule.

The Exchange wishes to emphasize the importance it places upon compliance with the above-named rules and, in particular, Rule 79A.15, which it adopted to reflect the provisions and certain interpretations of SEC Rule 11Ac1-4 under the Act. The Exchange recognizes that violations of Rule 79A.15 would likely result in violations of a Commission rule and, therefore, proposes, when a full disciplinary action is not warranted, to issue a summary fine instead of a cautionary letter as its first regulatory action against a specialist organization. While the Exchange, upon investigation, may determine that a violation of any of these rules is a minor violation of the type which is properly addressed by the procedures adopted under Rule 476A, in those instances where investigation reveals a more serious violation of the above-described rules, the Exchange will provide an appropriate regulatory response. This includes the full disciplinary procedures available under Rule 476.

¹ 15 U.S.C. 78s(b)(1).

² Amendment No. 1 corrects errors in exhibits to the Exchange's filing. See Letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, Commission, dated March 10, 1998.

³ Amendment No. 2 clarifies that the Exchange, in those instances in which an Exchange disciplinary action is not warranted, will issue a summary fine instead of a cautionary letter as its first regulatory action against a specialist organization. Such fine will be issued against the specialist member organization, which, according to the schedule of fines contained in Rule 476A, would be result in a fine of \$1,000; the second and third regulatory actions within a rolling 12-month period would result in fines of \$2,500 and \$5,000 respectively. If a specialist member organization is issued a fine relating to Rule 79A.15 twice within a rolling 12-month period, the Exchange will pursue formal disciplinary proceedings under Rule 476 when continued poor performance during that rolling 12-month period warrants such action. See letter from Robert J. McSweeney, Senior Vice President, Market Surveillance, NYSE, to Katherine A. England, Division of Market Regulation, SEC, dated April 16, 1998.

⁴ Concurrently with the proposed rule change, the Exchange is seeking to amend its Rule 19d-1 reporting plan for Rule 476A violations to include the items proposed for addition to the list of rules subject to Rule 467A. See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC, dated January 16, 1998.

2. Statutory Basis

The proposed rule change will advance the objectives of Section 6(b)(6) of the Act in that it will provide a procedure whereby member organizations can be "appropriately disciplined" in those instances when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The proposed rule change provides a fair procedure of imposing such sanctions, in accordance with the requirements of Sections 6(b)(7) and 6(d)(1) of the Act.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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, including whether the proposed rule change 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 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 NYSE. All submissions should refer to the File No. SR-NYSE-98-02 and should be submitted by June 8, 1998.

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

Margaret H. McFarland,

Deputy Secretary.

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TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as amended by Public Law 104-13; Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402-2801; (423) 751-2523.

Comments should be sent to the Agency Clearance Officer no later than July 17, 1998.

Type of Request: Regular submission.
Title of Information Collection: TVA Aquatic Plant Management.

Frequency of Use: On occasion.
Type of Affected Public: Individuals or households.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 2,000.

Estimated Total Annual Burden Hours: 400.

Estimated Average Burden Hours Per Response: .2.

⁵ 17 CFR 200.30-3(a)(12).

Need For and Use of Information: TVA committed to involving the public in developing plans for managing aquatic plants in individual TVA lakes under a Supplemental Environmental Impact Statement completed in August 1993. This proposed survey will provide a mechanism for obtaining input into this planning process from a representative sample of people living near each lake. The information obtained from the survey will be factored into the development of aquatic plant management plans for mainstream Tennessee River lakes.

William S. Moore,

Senior Manager, Administrative Services.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 30, 1997, [62 FR 51176].

DATES: Comments must be submitted on or before June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC-100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267-9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certification: Mechanics. Repairmen, Parachute Riggers—14 CFR part 65.

OMB Control Number: 2120-0022.

Type of Request: Extension of a currently approved collection.

Forms: FAA Form 8610-1 and FAA Form 8610-2.