

Combination, Spread, or Straddle Orders Under Priority Rules, as proposed PCX Rule 6.75, Commentary .04.

*k. Proposed PCX Rule 6.76, Priority of Split Price Transactions*

In PCX Rule 6.76(a), the Exchange proposed to change reference to "he" and "his" to "the member." The Exchange also proposed to change language in proposed PCX Rule 6.76 to read as follows: "[i]f a member purchases one or more option contracts of a particular series at a particular price or prices, the member must, at the next lower price at which another member bids, have priority in purchasing up to the equivalent number of option contracts of the same series that the member purchased at the higher price or prices, provided that the member's bid is made promptly and continuously and that the purchases effected represents the opposite side of a transaction with the same order or offer as the earlier purchase or purchases."

In addition, the Exchange proposed to eliminate OFPA D-8b, which simply reiterated the requirements of PCX Rule 6.76 pertaining to priority on split price transactions.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>8</sup> In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,<sup>9</sup> which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and in general, to protect investors and the public interest.

*a. OFPAs*

The Commission believes that the proposed rule change should foster efficiency in the implementation and enforcement of the Exchange's rules. Currently, members must refer to both the Exchange's rules and the Exchange's OFPAs to ensure that they are complying with all of the applicable requirements of the Exchange's rules. By combining the OFPAs with the

applicable Exchange rules, the Commission believes that it should be easier for Exchange members to locate pertinent rule language and to comply with applicable Exchange rules.

*b. Trading Rotations*

The Commission finds that the proposed changes to the procedures relating to trading rotations are consistent with the Act because they should foster just and equitable principles of trade by expediting the trading rotation process. Specifically, the Exchange proposed to permit two floor officials to direct that a trading rotation be employed instead of the full OFTC, which should result in faster implementation of trading rotations. Faster implementation of trading rotations should permit the reopening of affected options contracts and, thus, a resumption of normal trading, in a more timely fashion.

The Exchange also proposed to implement a new notification procedure in the event a closing rotation is necessary. Specifically, the Exchange proposed that the book staff notify floor brokers by 12:50 p.m. Pacific time, that a closing rotation may be necessary, and to require that only orders entered by 1:02 p.m. Pacific time will be eligible for execution during the trading rotation. The Commission believes that these new closing rotation procedures should foster efficiency on the floor of the Exchange. The proposal should provide floor brokers with sufficient notice that a closing rotation may be employed and should provide them with ample time to ensure that their orders are entered by 1:02 p.m. Pacific time so that they may be executed during the closing rotation. The Commission believes that providing express procedures for orders entered at or near the close of trading should result in more efficient executions.

*c. Reporting Duties*

The Exchange proposed to require market making clearing firms to instruct their respective trading desks to identify market maker orders that are entered from off the Exchange floor and not entitled to market maker margin treatment with a "C" identifier. Floor brokers will also be required to use this identifier when accepting orders by phone from market makers. The Commission believes that the use of this new identifier should ensure that Exchange members properly handle market maker orders.

*d. Erroneous Bids and Offers*

The Exchange proposed to amend PCX Rule 6.70, Commentary .01 to direct that reasonable care should also

be exercised prior to effecting transactions based on bids or offers that differ from previous bids or offers such that the difference may give rise to the probability that a print or market may be erroneous. The Commission believes that this should foster just and equitable principles of trade by potentially reducing the number of transactions executed based on erroneous market information.

*e. OBO Awareness of Quotes and Transactions*

The Exchange proposed to eliminate the requirement that OBOs be aware of *all* quotes and transactions that occur at his or her assigned post. While the Commission appreciates that it may be impracticable for the OBO to keep track of all bids and offers and transactions occurring at a particular post, the Commission believes that the OBO must be aware of a significant amount of quotes and transactions such that he or she can maintain a fair, orderly and competitive market at the post. Thus, the Commission believes that it is appropriate to eliminate the current requirement because it is impracticable but expects that each OBO will continue to be sufficiently aware of the market at his or her post to be able to fulfill his or her responsibilities and obligations. Further, the Commission expects that the Exchange will monitor its floor to ensure that each OBO continues to fulfill his or her responsibilities and that the elimination of this requirement does not negatively impact the efficiency and integrity of each market at each post.

### IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-PCX-99-44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

#### Request for Comments Concerning Compliance with Telecommunications Trade Agreements

**AGENCY:** Office of the United States  
Trade Representative.

<sup>8</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

**ACTION:** Notice of request for public comment.

**SUMMARY:** Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) ("section 1377"), the Office of the United States Trade Representative ("USTR") is reviewing, and requests comments on: the operation and effectiveness of and the implementation of and compliance with the World Trade Organization ("WTO") Basic Telecommunications Agreement; other WTO agreements affecting market opportunities for telecommunications products and services of the United States; the telecommunications provisions of the North American Free Trade Agreement ("NAFTA"); and, other telecommunications trade agreements with the Asia Pacific Economic Cooperation ("APEC") members, the European Union ("EU"), the Inter-American Telecommunications Commission ("CITEL"), Japan, Korea, Mexico and Taiwan. The USTR will conclude the review on March 31, 2001.

**DATES:** Comments are due by noon on Friday, January 26, 2001.

**ADDRESS:** Comments must be submitted to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Harry Sullivan, Office of Industry (202) 395-9620; or Demetrios Marantis, Office of the General Counsel (202) 395-3150.

**SUPPLEMENTARY INFORMATION:** Section 1377 requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services of the United States that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a telecommunications trade agreement with the United States is inconsistent with the terms of such agreement, or otherwise denies to U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its commitments under the WTO Basic Telecommunications Agreement or with other WTO obligations, *e.g.*, the WTO General Agreement on Trade in Services ("GATS"), including the Annex on Telecommunications and the Reference Paper on Pro-Competitive

Regulatory Principles, that affect market opportunities for U.S. telecommunications products and services;

(2) What steps to take regarding out-of-cycle reviews initiated in 2000 under Section 1377 regarding compliance by Germany, Mexico, South Africa, and the United Kingdom with telecommunications trade agreements;

(3) Whether Canada or Mexico has failed to comply with their telecommunications commitments under NAFTA;

(4) Whether APEC or CITEL members, the EU, Japan, Korea, Mexico or Taiwan have failed to comply with their commitments under additional telecommunications agreements with the United States.

See 63 FR 1140 (January 8, 1998) for further information concerning the agreements listed below and USTR Press Releases 00-22 (March 30, 2000), 00-25 (April 4, 2000), 00-46 (June 16, 2000), 00-55 (July 18, 2000), 00-57 (July 28, 2000), 00-66 (October 2, 2000), 00-78 (November 8, 2000), and 00-93 (December 21, 2000) available at [www.ustr.gov](http://www.ustr.gov), for the results of the 1999-2000 section 1377 review concerning these agreements.

#### WTO Agreements

The GATS contains general obligations that apply to all WTO members and services, and specific obligations that apply only to services listed in a WTO member's schedule of commitments. As part of the GATS, WTO members have made both basic and value-added telecommunications commitments. Specifically, the Fourth Protocol to the GATS—generally referred to as the WTO Basic Telecommunications Agreement—is the legal instrument embodying seventy WTO members' basic telecommunications services commitments under the GATS. The agreement entered into force on February 6, 1998, and since that time, an additional nine WTO members have made telecommunications services commitments, some upon their accession to the WTO. Many members also took separate commitments in the area of value-added telecommunications services as part of the GATS, which entered into force on January 1, 1995. A description of each member's specific commitments is available on the Internet at [www.wto.org](http://www.wto.org).

Under the WTO Basic Telecommunications Agreement, members have made full or qualified commitments in three specific areas: market access, national treatment, and pro-competitive regulatory principles.

Members that have made full market access commitments have agreed to permit local, long-distance and international service through any means of network technology, either on a facilities basis or through resale of existing network capacity. Members making full national treatment commitments have agreed to ensure treatment no less favorable to U.S. services or service suppliers than that accorded to their own services or service suppliers. And many members have also adopted pro-competitive regulatory principles—set forth in a Reference Paper and incorporated in the members' schedules—which commit members to establish independent regulatory bodies, ensure interconnection with networks in foreign countries at cost-oriented rates, maintain appropriate measures to prevent anti-competitive practices such as cross-subsidization, and ensure transparency of government regulations and licensing.

The USTR seeks comment on whether any WTO member that has undertaken telecommunications services commitments under the GATS has failed to make the necessary legislative or regulatory changes to implement its commitments, or permits acts, policies, or practices in its markets that run counter to that member's commitments. In addition, the USTR seeks comments on whether any WTO member permits acts, policies, or practices that are inconsistent with other WTO obligations and that affect market opportunities for telecommunications products and services of the United States.

#### Out of Cycle Reviews Regarding Germany, Mexico, South Africa, and the United Kingdom

The USTR seeks comments on what steps to take regarding out-of-cycle reviews initiated under Section 1377 in 2000 regarding compliance by Germany, Mexico, South Africa, and the United Kingdom with telecommunications trade.

*Germany—out-of-cycle review:* On June 16, 2000, USTR announced the extension of an out-of-cycle review under section 1377 of Germany's compliance with its WTO telecommunications commitments, notably its Reference Paper commitments to ensure interconnection under non-discriminatory terms and conditions that are transparent and reasonable. The review, initiated on March 30, 2000, focused on: (1) Continued excessive delays by Deutsche Telekom ("DT") in providing interconnection to competing carriers;

(2) excessive license fees charged by the German government, ranging from \$1.4 to \$6.0 million; (3) non-transparent DT cost data filed with the German regulator to support DT's position on interconnection fees and other matters; and (4) refusal by DT to perform billing and collection services for new entrants absent a regulatory mandate that DT continue to perform this function.

Germany has taken positive steps on most of these issues, pledging to reduce license fees and interconnection backlogs. It has also required DT to bill competitors' customers for long distance service. The USTR seeks comments on whether Germany continues to address these issues in a meaningful fashion.

**Mexico—out-of-cycle review:** On November 8, 2000, USTR announced that the United States will request the establishment of a WTO dispute settlement panel to examine Mexico's compliance its telecommunications commitments. The U.S. panel request outlines the specific measures which the United States believes are inconsistent with Mexico's WTO commitments, including Mexico's failure to ensure (1) timely, non-discriminatory interconnection for local competitors, which remain unable to interconnect with Telmex at the local level; (2) cost-oriented interconnection for all calls into and within Mexico, including for calls to remote regions where competitive suppliers lack facilities; and (3) competitive alternatives for terminating international calls into Mexico, currently set at a rate of 19 cents per minute, or up to 15 cents per minute higher than cost. The United States has also requested WTO consultations on measures adopted after the initial U.S. consultation request concerning newly issued rules to (1) regulate the anti-competitive practices of Telmex (Mexico's major telecommunications supplier) and (2) establish long-distance interconnection rates for 2001.

**South Africa—out-of-cycle review:** On June 16, 2000, USTR announced the extension of an out-of-cycle review under Section 1377 of South Africa's compliance with its WTO telecommunications commitments. Specifically, the United States is concerned that South Africa is failing to ensure—consistent with the GATS Annex on Telecommunications—that its dominant telecommunications supplier ("Telkom") provide access to and use of the private lines needed for the competitive supply of value-added network services ("VANS"). The newly-created regulator, the Independent Communications Authority of South Africa ("ICASA"), has mandated that

Telkom provide private lines to Telkom's competitors, but Telkom has contested these decisions in South African courts. ICASA is currently holding public consultation procedures to determine the definition of VANS and Virtual Private Networks ("VPNs"). The USTR seeks comments on whether South Africa is addressing these issues satisfactorily.

**United Kingdom—out-of-cycle review:** On December 21, 2000, USTR announced the extension of an out-of-cycle review under Section 1377 of the United Kingdom's compliance with its WTO Reference Paper commitments to provide ensure interconnection on terms, conditions, and cost-oriented rates that are sufficiently unbundled. The UK telecommunications regulator ("OFTEL") is currently carrying out a regulatory proceeding to determine the price at which competitors can gain access to the telephone infrastructure of British Telecom ("BT") to provide advanced data services (unbundling of the local loop). On August 8, OFTEL announced the new license conditions for BT, which require BT to provide unbundled local loops to other telecom operators. On November 23, OFTEL found in favor of competitors' complaints that BT's proposed contract for local loop access "was not reasonable" and published its own terms and conditions for such a contract. USTR requests comments concerning whether UK is properly implementing its WTO Reference Paper obligations.

#### *NAFTA and Other Trade Agreements*

The USTR seeks comments on the operation and effectiveness of certain trade agreements regarding telecommunications products and services, including the NAFTA. Chapter 13 of the NAFTA includes market access and national treatment commitments for value-added telecommunications services; and, it includes a national treatment commitment for conformity assessment in relation to telecommunications equipment standards.

Bilateral agreements include, on a country-by-country basis:

**Japan:** The 1999 Nippon Telegraph and Telephone (NTT) agreement; the 1994 U.S.-Japan Public Sector Procurement Agreement on Telecommunications Products and Services; and, additional telecommunications trade agreements with Japan, including a series of agreements on: international value-added network services (IVANS) (1990-91); open government procurement of all satellites, except for government

research and development satellites (1990); network channel terminating equipment (NCTE) (1990); and cellular and third-party radio systems (1989) and cellular radio systems (1994).

**Korea:** Agreements regarding protection of intellectual property rights ("IPR") (1996), type approval of telecommunications equipment (1992/1996), transparent standard-setting processes, (1992/1997) and non-discriminatory access to Korea Telecommunications' procurement of telecommunications products. (1992/1996)

**Mexico:** The 1997 understanding regarding test data acceptance agreements between product safety testing laboratories.

**Mutual Recognition Agreements For Conformity Assessment of Telecommunications Equipment:** Mutual Recognition Agreements ("MRAs") regarding telecommunications equipment trade with the European Union (1997), APEC countries (1998), and CITE countries (1999).

**Taiwan:** The February 1998 agreement on interconnection pricing for provision of wireless services in Taiwan; and, the July 1996 agreement on the licensing and provision of wireless services through the establishment of a competitive, transparent and fair wireless market in Taiwan. USTR also seeks comments on telecommunications commitments made by Taiwan to the United States in October 1999 and February 1998 as part of its accession to the WTO.

#### **Public Comment: Requirements for Submissions**

USTR requests comments on: the operation and effectiveness of—including implementation of and compliance with—the WTO Basic Telecommunications Agreement; other WTO agreements affecting market opportunities for telecommunications products and services of the United States; the NAFTA; and other telecommunications trade agreements with APEC members, CITE members, the EU, Japan, Korea, Mexico and Taiwan. All comments must be in English, identify on the first page of the comments the telecommunications trade agreement(s) discussed therein, be addressed to Gloria Blue, Executive Secretary, TPSC, ATTN: Section 1377 Comments, Office of the U.S. Trade Representative, and be submitted in 15 copies by noon on Friday, January 26, 2001.

All comments will be placed in the USTR Reading Room for inspection shortly after the filing deadline, except

business confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential information submitted in accordance with 15 CFR 2003.6, must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 15 copies, and must be accompanied by 15 copies of a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the USTR Public Reading Room.

An appointment to review the comments may be made by calling Brenda Webb at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 101.

**Carmen Suro-Bredie,**  
Chairman, Trade Policy Staff Committee.  
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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[FRA Docket No. 87-2, Notice No. 10]

RIN 2130-AB20

### Automatic Train Control (ATC) and Advanced Civil Speed Enforcement System (ACSES); Northeast Corridor (NEC) Railroads

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Amendments to Order of Particular Applicability Requiring ACSES Between New Haven, Connecticut and Boston, Massachusetts—Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols.

**SUMMARY:** FRA amends its Order of Particular Applicability requiring all trains operating on the Northeast Corridor (NEC) between New Haven, Connecticut and Boston, Massachusetts (NEC—North End) to be equipped to respond to the new Advanced Civil Speed Enforcement System (ACSES) system. The amendments specify temporary operating protocols that will minimize the impact of ACSES on MBTA service during the initial implementation of ACSES on the NEC—North End.

**DATES:** The amendments to the Order are effective January 9, 2001.

**FOR FURTHER INFORMATION CONTACT:** W. E. Goodman, Staff Director, Signal and Train Control Division, Office of Safety,

Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493-6325); Paul Weber, Railroad Safety Specialist, Signal and Train Control Division, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493-6258); or Patricia V. Sun, Office of Chief Counsel, Mail Stop 10, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493-6038).

**SUPPLEMENTARY INFORMATION:** The Order of Particular Applicability, as published on July 22, 1998, set performance standards for cab signal/automatic train control and ACSES systems, increased certain maximum authorized train speeds, and contained safety requirements supporting improved rail service on the NEC. 63 FR 39343. Among other requirements, the Order required all trains operating on track controlled by the National Railroad Passenger Corporation (Amtrak) between New Haven, Connecticut and Boston, Massachusetts (NEC—North End) to be controlled by locomotives equipped to respond to ACSES by October 1, 1999. In a later notice, FRA amended the Order to set a new implementation schedule and make technical changes. 65 FR 62795, October 19, 2000.

### Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols

FRA is making the amendments to this Order effective upon publication instead of 30 days after the publication date in order to realize the significant safety and transportation benefits afforded by the ACSES system at the earliest possible time. All affected parties have been notified. The temporary protocols specified below will provide a safe, operationally sound transition to full ACSES implementation on MBTA territory while minimizing the impact on MBTA service. FRA is not reopening the comment period since these technical changes will be effective only until July 1, 2001.

FRA expects MBTA to make every effort to run ACSES-equipped trains during the approximately six-month period that these protocols are in effect; this additional time should prove sufficient for MBTA to complete implementation of ACSES. However, if MBTA cannot dispatch a train equipped with ACSES, it may revert to the train control methods and maximum operating speeds in effect prior to the effective date of this Order.

Accordingly, for the reasons stated in the preamble, the Final Order of Particular Applicability at 65 FR 62797-

62799 (October 19, 2000) (Order) is amended as follows:

1. The authority for the Order continues to read as follows: 49 U.S.C. 20103, 20107, 20501-20505 (1994); and 49 CFR 1.49(f), (g), and (m).

2. The unnumbered paragraph of the Order at 65 FR 62798 that reads "Effective October 21, 2000, the following performance standards and special requirements shall apply, except for paragraph 9(b), which shall apply February 1, 2001." is deleted, and the following paragraph is inserted in its place: "Effective October 21, 2000, the following performance standards and special requirements shall apply, except for paragraph 9(b), which shall apply February 1, 2001, and paragraph 11, which shall apply January 9, 2001."

3. Paragraph 11 is added at the end of paragraph 10 of the Order at 65 FR 62799, to read as follows:

### 11. Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols

(a) Effective upon January 9, 2001 until July 1, 2001, Amtrak must adhere to the following procedures if it becomes necessary to dispatch an MBTA train from its initial terminal with inoperative onboard ACSES equipment:

(1) The train dispatcher must verbally authorize the movement;

(2) The train dispatcher must issue a temporary speed restriction to limit the speed of high speed trains (Amtrak trains hauled by electric locomotives or electric power cars) to 110 miles per hour (mph) in the ACSES territory where the MBTA train with inoperative ACSES equipment will operate; and

(3) Once the MBTA train with inoperative ACSES equipment is verified to have cleared the ACSES territory, the train dispatcher may cancel the 110-mph speed restriction.

(b) The procedures set forth in subparagraph (a) of this paragraph must also be followed if it becomes necessary to dispatch an MBTA train from its initial terminal with a locomotive or control car that is not equipped with onboard ACSES equipment, if no ACSES-equipped MBTA locomotive or control car is available.

(c) Amtrak must promptly notify the regional headquarters office for Region 1 of FRA's Office of Safety of any invocations of this protocol. Included in the notification must be the date, time, and location of the incident, and the reason for invoking the protocol.