

that DTC employs in such a refuse to pay situation, will be reduced. Therefore, the Commission finds that the rule change implementing the RAD-like function for maturity presentments of MMIs should facilitate the prompt and accurate clearance and settlement of securities at DTC and for that reason is consistent with Section 17A and the rules and regulations thereunder.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change 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 applicable.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2002-04) be and hereby is approved.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46403; File No. SR-NYSE-2002-25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Relating to a Technical Correction in the Exchange's Listed Company Manual

August 22, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on July 16, 2002, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") submitted to 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 NYSE. On August 15, 2002, the NYSE filed with the Commission Amendment No. 1 to the proposed rule change.³ The

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to amend Section 102.04 of the Exchange's Listed Company Manual (the "Manual") to correct an erroneous statutory reference.

Below is the text of the proposed rule change. Proposed new language is *italicized*.

Listed Company Manual

102.00 Domestic Companies

* * * * *

102.04 Minimum Numerical Standards-Closed-End Management Investment Companies Registered Under the Investment Company Act of 1940

* * * * *

Notwithstanding the foregoing requirement for market value of publicly held shares of \$60,000,000, the Exchange will generally authorize the listing of all the Funds in a group of Funds listed concurrently with a common investment adviser or investment advisers who are "affiliated persons", as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended, *if*:

- Total group market value of publicly held shares equals in the aggregate at least \$200,000,000;
- The group market value of publicly held shares averages at least \$45,000,000 per Fund; and
- No one Fund in the group has market value of publicly held shares of less than \$30,000,000.

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

Amendment No. 1, the NYSE made a technical correction to the proposed rule text. For purposes of determining the effective date and calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers August 15, 2002 to be the effective date of the proposed rule change, the date the NYSE filed Amendment No. 1. 15 U.S.C. 78s(b)(3)(C).

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 recently amended Section 102.04 of the Manual to permit the concurrent listing of closed-end funds with a common investment adviser or advisers who are "affiliated persons."⁴ The Exchange incorrectly stated that "affiliated persons" was defined in Section 2(3) of the Investment Company Act of 1940, as amended. In fact, "affiliated persons" is defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.⁵ The Exchange proposes to correct this reference in Section 102.04 of the Manual. The Exchange also proposes to correct a typographical error in the rule text.⁶

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6 of the Act,⁷ in general, and with section 6(b)(5) of the Act,⁸ specifically, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The NYSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public

⁴ See Securities Exchange Act Release No. 46163 (July 3, 2002), 67 FR 46559 (July 15, 2002).

⁵ 19 U.S.C. 80a-2(a)(3).

⁶ See Amendment No. 1, *supra* note 3.

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 13, 2002 ("Amendment No. 1"). In

interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) under the Act¹¹ normally does not become operative prior to 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The NYSE seeks to have the Commission waive the five-day pre-filing notice requirement and have the proposed rule change become operative immediately due to the technical nature of the proposal.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change immediately operative¹² and waive the five-day pre-filing notice requirement. The Commission notes that the proposed rule change does not present any substantive issues, but only corrects an erroneous statutory reference in Section 102.04 of the Manual. At any time within 60 days of the filing of the 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, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written

submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 File No. SR-NYSE-2002-25 and should be submitted by September 19, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-22096 Filed 8-28-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46406; File No. SR-PCX-2002-51]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Listing Maintenance Standards for Options

August 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 22, 2002, the Pacific Exchange, Inc. ("PCX" 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 Exchange. 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

PCX is proposing to amend PCX Rule 3.7 to allow the Exchange to add new

series of options when such series are available for trading on one or more other options exchanges and the underlying security met the market price per share requirements at the time that a competing exchange added such series. The text of the proposed rule change is below; new language is italicized.

* * * * *

Withdrawal of Approval of Underlying Securities

Rule 3.7(a) The approval of an underlying security for exchange transactions shall be withdrawn by the Exchange if the underlying security fails to meet the then current requirements necessary to maintain such approval or for any reason the Exchange deems necessary. In the event the Exchange withdraws approval, no additional series of option contracts of the class covering that underlying security shall be opened; provided, however, that where exceptional circumstances have caused the noncompliance of an underlying security with Subsection (B) or (C) of Section 1 of Commentary .01 or Section 2 or 3 of Commentary .01 hereunder, the Exchange may, in the interest of maintaining a fair and orderly market or for the protection of investors, open additional series of option contracts of the class covering the subject underlying security.

(b) No change.

Commentary:

.01—No change.

.02—In connection with Rule 3.7(a) and Commentary .01.3 thereto, the Exchange shall direct that no additional series of options contracts of the class covering an underlying security be opened at any time when the market price per share of the subject underlying security is less than \$3.00. Subject to Paragraph 3 of Commentary .01 above, the market price per share of the underlying security will be determined as follows:

1. For intra-day series additions, the last reported trade in the primary market in which the security is traded at the time the Exchange determines to add these additional series intra-day;

2. For next-day series additions, the closing price reported in the primary market in which the security is traded on the last trading day preceding the day on which such series additions are authorized; and

3. for expiration series additions, the closing price reported in the primary market in which the security is traded on the last trading day preceding expiration Friday.

Notwithstanding this Commentary .02, the Exchange may add series of

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ *Id.*

¹² For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.