acts, and, in general, to protect investors and the public.

Similarly, the proposed Memorandum's description of the types of proprietary trading near the close that may, in certain circumstances, constitute a violation of just and equitable principles of trade is reasonably designed to address potential trading abuses that might occur when members are facilitating customer block or program orders. The Commission agrees with the NYSE that the conduct addressed in the Memorandum—trading with knowledge of impending large at the close orders—could prove detrimental to market integrity. The proposed guidelines for such trading near the close are consistent with long standing prohibitions against frontrunning. Moreover, the NYSE restrictions on block facilitation activities near the close are very limited in scope and should provide helpful guidance to members.

For the reasons discussed below, the Commission also believes the Comment Letter's criticisms of the proposal are adequately addressed. First, it is unnecessary for the NYSE to conduct further empirical studies before adopting this proposal. The NYSE represents that it has observed instances of block facilitation trading by its members that results in closing prices that disadvantage customers.[15] In addition, as previously mentioned, the Memorandum is an elaboration of existing prohibitions against frontrunning. Thus, the NYSE is merely providing guidance on the types of conduct that already constitute a violation of just and equitable principles of trade under its rules.

Second, the Commission does not believe that simply requiring disclosure to customers sufficiently will protect customers or preserve market integrity. As the NYSE has indicated, the conduct addressed in this proposal affects not only the facilitation member's customer, but also all other market participants. The NYSE member still would have an informational advantage over the rest of the market even after full disclosure to its customer.

Third, the Comment Letter considers the Memorandum's guidance as a blanket prohibition against certain proprietary trading after 3:40 p.m., the designated cut-off time.[16] The Memorandum, however, only restricts post-3:40 p.m. trading in limited circumstances. The Memorandum states that a member, when positioning itself to facilitate a customer transaction to be made after the close at the closing price, should not trade for its own account ''near the close'' (after 3:40 p.m.) if it intends to execute an at the close order that reasonably can be expected to impact the closing price of the security. The Memorandum does not prohibit proprietary trading after 3:40 p.m., only a limited type of proprietary trading when in possession of a form of non-public, material market information.

Fourth, the Commission does not agree with the Comment Letter's assertion that the proposed regulation of proprietary trading near the close, defined generally as after 3:40 p.m., provides the Exchange with excessive prosecutorial discretion. The 3:40 p.m. cut-off is intended to provide members with *more* guidance as to prohibited conduct under the NYSE rules. At the same time, the 3:40 p.m. cut-off is not intended to operate as a ''safe-harbor.'' The cut-off guideline provided in the Memorandum does not preclude the Exchange from determining that certain transactions before 3:40 p.m. were executed ''near the close.'' The Commission agrees with the NYSE that the standard for determining which transactions are executed ''near the close'' must be flexible and take into consideration factors unique to the market for a particular security. The Commission therefore believes the proposed standard for determining when an execution is ''near the close'' is appropriate and even though it may cover transactions effected before the designated cut-off time.

Fifth, the Comment Letter suggests that the proposed standard would relieve the Exchange from proving manipulative intent for transactions executed after 3:40 p.m. The NYSE, however, seeks to address conduct that could enable block positioners to benefit from an unreasonable informational advantage over other market participants. The Commission believes that it is reasonable for the NYSE to adopt a position to reduce the likelihood of members trading to their own advantage based on customer information. This position still requires proof that the at the close order reasonably could be expected to affect the closing price.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–NYSE–94–45) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

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[15] *See* NYSE Letter, *supra* note 6.

[16] *See* Comment Letter, *supra* note 10.

[17] 15 U.S.C. 78s(b)(2) (1988).

[18] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35836; File No. SR–PSE–95–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Number of Trading Posts That May Be Included as Part of Each Market Maker's Primary Appointment Zone

June 9, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 7, 1995, 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. 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 proposes to increase the number of trading posts that may be included as part of each market maker's primary appointment zone.

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.

[1] 15 U.S.C. 78s(b)(1) (1988).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PSE Rule 6.35 currently requires each options market maker to select and maintain a primary appointment zone consisting of one or two trading posts.[2] Pursuant to Rule 6.35, Commentary .03, at least 75% of the trading activity of each market maker (measured in terms of contract volume per quarter) must be in classes of option contracts to which such market maker's primary appointment zone extends. In addition, under the new short sale rule applicable to stocks traded in the Nasdaq market, the options market maker exemption to that rule is limited to stocks underlying options in which the market maker holds an appointment.[3]

The Exchange proposes to amend Rule 6.35 in two respects: First, the maximum number of trading posts that could be included as part of each primary appointment zone would be increased from two to six. Second, the Options Appointment Committee could allow a market maker to exceed the six trading post maximum if special circumstances were to exist. Under the proposal, the largest number of issues a market maker could have within his or her primary appointment zone, in the absence of special circumstances, would be 108 (or 31% of the issues traded on the Options Floor).

The Exchange believes that the current limit of two trading posts is unduly restrictive and places the PSE's options market makers at a competitive disadvantage in relation to market makers on other options exchanges. The Exchange further believes that its proposal will allow it the flexibility to respond promptly to any need for greater market maker participation that may arise in light of recent and anticipated increases in the number of options classes traded on the floor. The Exchange also believes that its proposal, if approved, would serve to assure adequate market maker coverage of all classes traded on the floor and to enhance the ability of the Exchange to provide deep and liquid markets and to provide for competitive equality among exchanges.

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general, and Section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

[2] PSE Rule 6.35 requires multiple posts to be contiguous, except under special circumstances.

[3] *See* PSE Rule 4.19(c)(2).

(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

Written comments on the proposed rule change were neither solicited nor received

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. 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 in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–PSE–95–11 and should be submitted by [insert date 21 days after the date of this publication].

For the Commission to by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

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[4] 17 CFR 200.30–(a)(12) (1994).

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on June 2, 1995.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package.)

1. Beneficiary Recontact Report—0960–0502. The information on form SSA–1588 is used by the Social Security Administration to recontact mothers, fathers or children in direct payment to determine if they are still entitled. The respondents are beneficiaries who are in the ''high risk'' area and are, therefore, most prone to overpayments.

Number of Respondents: 241,260.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 20,105 hours.

2. Child-Care Dropout Questionnaire—0960–0474. The information on form SSA–4162 is used by the Social Security Administration to determine if an applicant for disability benefits may have certain computation years excluded from the benefit computation. This will result in a higher benefit amount. The respondents are individuals applying for disability benefits.

Number of Respondents: 2,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 167 hours.

3. Representative Payee Evaluation Report—0960–0069. The information on form SSA–624 is used by the Social Security Administration to accurately account for the use of social security benefits and supplemental security income payments that representative payees receive on behalf of the