

used solely to record arbitrage transactions (an "arbitrage account").

As with the exception for liquidation of block facilitation positions, the burden of proof to demonstrate that customer consent was obtained would fall on the member or member organization. The terms "bona fide arbitrage" and "risk arbitrage" would have the meaning ascribed to them in Securities Exchange Act Release No. 15533.⁶

Exception for Market Makers

The Exchange's proposal would exempt from Rule 92 transactions by a member organization acting in the capacity of a market maker pursuant to Rule 19c-3 under the Act,⁷ and transactions by a regional exchange specialist or market maker, to the extent that a riskless principal trade is effected and immediately liquidated at the same price to a customer on that exchange.

Information Barriers

The amendments to Rule 92 provide that a member or employee of a member organization responsible for entering proprietary orders shall be presumed to have knowledge of a particular customer order unless the member organization has implemented a reasonable system of internal policies and procedures to prevent the misuse of information about customer orders by those responsible for entering such proprietary orders. Each member organization would have the flexibility to implement such procedures as it deemed appropriate to its own business operations.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed rule change will enable member organizations to add depth and liquidity to the Exchange's market, while continuing to provide customer protection through the requirement of customer approval for trading along situations.

⁶ Securities Exchange Act Release No. 15533 (January 26, 1979).

⁷ Rule 19c-3 under the Act provides that the rules of national securities exchanges may not impose off-board trading restrictions on securities listed after April 26, 1979.

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

As the proposed amendments to Rule 92 would apply equally to all market centers with respect to trading by NYSE members and member organizations, 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 understands that the Commission has received comments on SR-NYSE-94-34 and Amendment No. 1 thereto from several self-regulatory organizations and member organizations. The Exchange believes that issues raised by these commentators are addressed herein, and in a letter from James E. Buck, Senior Vice President and Secretary of the Exchange, to Brandon Becker, Director of the Division of Market Regulation, dated March 15, 1995.⁸

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 other 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, N.W., 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

⁸ This letter and all other comment letters received by the Commission regarding the NYSE's proposal are available in the Commission's public reference room in File No. SR-NYSE-94-34.

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, N.W., Washington, DC 20549. 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-94-34 and should be submitted by August 18, 1995.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-18602 Filed 7-27-95; 8:45 am]

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[Release No. 34-36009; File No. SR-NYSE-95-26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to an Extension of Its Pilot Program for Stopping Stock Under Amendments to Rule 116.30

July 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on July 19, 1995, the New York Stock Exchange, Inc. ("NYSE" 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 proposed rule change consists of a request to extend amendments to Rule 116.30, with respect to the ability of specialists to stop stock in minimum variation markets for three months until October 21, 1995.¹ The text of the

¹ The NYSE received approval to amend Rule 116.30, on a pilot basis, in Securities Exchange Act Release No. 28999 (Mar. 21, 1991), 56 FR 12964 (Mar. 28, 1991) (File No. SR-NYSE-90-48) ("1991 Approval Order"). The Commission subsequently extended the NYSE's pilot program in Securities Exchange Act Release Nos. 30482 (Mar. 16, 1992), 57 FR 10198 (Mar. 24, 1992) (File No. SR-NYSE-92-02) ("1992 Approval Order"); 32031 (Mar. 22,

proposed rule change is available at the Office of the Secretary, NYSE, and 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 III 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 purpose of the proposed rule change is to extend the effectiveness of amendments to Exchange Rule 116.30 that permit a specialist to grant a stop in a minimum variation market. The practice of "stopping" stock by specialists on the Exchange refers to a guarantee by the specialist that an order the specialist receives will be executed at no worse a price than the contra-side price in the market when the specialist receives the order, with the understanding that the order may in fact receive a better price.

Formerly, Exchange Rule 116.30 permitted a specialist to stop stock only when the quotation spread was at least twice the minimum variation (*i.e.*, for most stocks $\frac{1}{4}$ point), with the specialist then being required to narrow the quotation spread by making a bid or offer, as appropriate, on behalf of the order that is being stopped.

For three years, on March 21, 1991, March 16, 1992, and March 22, 1993, the Commission approved, on a one-year pilot basis each time, amendments to the rule that permit a specialist to stop stock in a minimum variation market (generally referred to as an $\frac{1}{8}$ -point market).² The Exchange sought these amendments on the grounds that many orders would receive an improved price if stopping stock in $\frac{1}{8}$ point

1993), 58 FR 16563 (Mar. 29, 1993) (File No. SR-NYSE-93-18) ("1993 Approval Order"); 33792 (Mar. 21, 1994), 59 FR 14437 (Mar. 28, 1994) (File No. SR-NYSE-94-06) ("1994 Approval Order"); and 35309 (Jan. 31, 1995) 60 FR 7247 (Feb. 7, 1995) (File No. SR-NYSE-95-02) ("January 1995 Approval Order").

² See 1991, 1992, and 1993 Approval Orders, *supra*, note 1.

markets were permitted. The amendments to Rule 116.30 permit a specialist, upon request, to stop individual orders of 2,000 shares or less, up to an aggregate of 5,000 shares of multiple orders, in an $\frac{1}{8}$ point market.³ A specialist may stop an order of a specified larger order size threshold, or a larger aggregate number of shares, after obtaining Floor Official approval.

In the Commission's 1994 Approval Order, which extended the pilot until March 21, 1995, the Commission asked the Exchange to submit a fourth monitoring report on the stopping stock pilot.⁴ Subsequently, the Commission approved an extension of the pilot until July 21, 1995, so that the Commission would have additional time to evaluate the new information provided in the fourth monitoring report and to ensure that Rule 116.30, as amended, does not harm public customers with limit orders on the specialist's book.⁵

In connection with the proposed rule change, the Exchange has submitted four monitoring reports to the Commission, which review the operation of the pilot. The Exchange believes that the results obtained by its monitoring effort during the pilot period show that the amendments to Rule 116.30 enable specialists to better serve investors through the ability to offer price improvement to stopped orders, while having relatively little adverse impact on other orders on the book.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The amendments to Rule 116.30 are consistent with these objectives in that they permit the Exchange to better serve its customers by enabling specialists to execute customer orders at improved prices.

³ The NYSE has stated, both to the Commission and to its members that specialists should only stop stock in a minimum variation market when an imbalance exists on the opposite side of the market and such imbalance is of sufficient size to suggest the likelihood of price improvement. See, *e.g.*, letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Mary N. Revell, Branch Chief, Division of Market Regulation, SEC, dated December 27, 1990; NYSE information memo #1809, dated September 12, 1991.

⁴ See 1994 Approval Order, *supra*, note 1.

⁵ See January 1995 Approval Order, *supra*, note 1.

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

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

No written comments were solicited or received with respect to the proposed rule change.⁶

III. 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, 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-95-26 and should be submitted by August 18, 1995.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

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 and, in particular with Section

⁶ The Commission has received a comment letter regarding permanent approval of the NYSE's procedures for stopping stock in minimum variation markets. See letter from Junius W. Peake, Monfort Professor of Finance, University of Northern Colorado, to Secretary, SEC, dated March 1, 1995. The Commission believes that it would be more appropriate to address the issues raised by the comment letter in the context of the Exchange's proposal requesting permanent approval of its stopping stock pilot program. See Securities Exchange Act Release No. 35908 (June 28, 1995), 60 FR 34564 (July 3, 1995) (notice of filing of proposed rule change relating to permanent approval of NYSE's pilot program for stopping stock in a minimum variation market).

6(b)(5)⁷ and Section 11(b)⁸ of the Act. The Commission believes that the amendments to Rule 116.30 should further the objectives of Section 6(b)(5) and Section 11(b) through pilot program procedures designed to allow stops, in minimum variation markets, under limited circumstances that provide the possibility of price improvement to customers whose orders are granted stops.

In the orders approving the pilot procedures,⁹ the Commission asked the Exchange to study the effects of stopping stock in a minimum variation market. The Exchange has submitted to the Commission several monitoring reports regarding the amendments to Rule 116.30. The Commission believes that the monitoring reports, especially the latest report, provide useful information regarding the effectiveness of the program during the pilot period. The Commission, however, finds that additional time is necessary to evaluate carefully and comprehensively the information provided by the Exchange and the NYSE's use of its pilot procedures. Accordingly, the Commission believes that it is reasonable to extend the pilot program until October 21, 1995, to avoid compromising the benefit that investors might receive under Rule 116.30, as amended, while the Commission is considering whether to permanently approve the pilot program.¹⁰

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NYSE-95-26) is hereby approved on a pilot basis until October 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-18604 Filed 7-27-95; 8:45 am]

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[Release No. 34-36003; File No. SR-OCC-95-07]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Concerning Equity TIMS

July 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ ("Act"), notice is hereby given that on May 26, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change through May 31, 1996.

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

The purpose of the proposed rule change is to have the Commission extend its order granting temporary approval of OCC's use of its Theoretical Intermarket Margin System ("TIMS") for calculating clearing margin positions in equity options.²

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.³

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

On March 1, 1991, the Commission temporarily approved a proposed rule change which authorized OCC to use TIMS to calculate clearing member margin requirements on equity options.⁴ Since its initial temporary approval of Equity TIMS, the Commission has extended the temporary approval three times.⁵

Equity TIMS utilizes options price theory (*i.e.*, an option pricing model) to project the cost of liquidating in the event of a "worst case" theoretical change in the price of the underlying securities, each clearing member's short equity option positions and long equity option positions on which OCC is entitled to assert a lien. This projected liquidation cost is then used by Equity TIMS to calculate for each clearing member a margin requirement to cover that cost.

OCC has requested an additional extension so that it can complete its analysis of Equity TIMS. Specifically, in its discussions with the Commission's staff preceding the Commission's initial temporary approval of Equity TIMS, OCC represented that it would undertake to analyze the effects of including equity option volatilities over longer periods in determining margin intervals and would report the results of its analysis to the Commission.⁶ OCC recently submitted a report of its analysis to the Commission's staff. Accordingly, OCC seeks an extension of the Commission's temporary approval of

⁴ After the Commission's approval of File No. SR-OCC-89-12 on March 1, 1991, OCC phased out its previous margin system, which was known as the "production system," and since then has used Equity TIMS to calculate its clearing members' margin requirements on equity option positions. For a complete description of Equity TIMS, refer to Securities Exchange Act Release No. 28928 (March 1, 1991), 56 FR 9995 [File No. SR-OCC-89-12] (order approving the use of Equity TIMS to calculate margin on equity options on a temporary basis through May 31, 1992).

⁵ Securities Exchange Act Release Nos. 30761 (May 29, 1992), 57 FR 24286 [File No. SR-OCC-92-15] (order extending the approval of Equity TIMS through May 31, 1993); 32388 (May 28, 1993), 58 FR 31989 [File No. SR-OCC-93-06] (order extending the approval of Equity TIMS through May 31, 1994); and 34065 (May 13, 1994), 59 FR 26534 [File No. SR-OCC-94-03] (order extending the approval of Equity TIMS through May 31, 1995).

⁶ OCC initially was delayed because it expanded the scope of its analysis from ten years to thirty years and had difficulty in obtaining an accurate data base of information covering the expanded period of review. OCC also determined that its analysis of equity options volatility would benefit from a review by an outside consultant, and because it took OCC some time to obtain the services of an appropriate consultant, its analysis was delayed further.

⁷ U.S.C. 78f (1988 & Supp. V 1993).

⁸ 15 U.S.C. 78k (1988).

⁹ See *supra*, note 1.

¹⁰ See Securities Exchange Act Release No. 35908 (June 28, 1995), 60 FR 34564 (July 3, 1995) (notice of filing of proposed rule change relating to permanent approval of NYSE's pilot program for stopping stock in a minimum variation market).

¹¹ 15 U.S.C. § 78s(b)(2) (1988).

¹² 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1) (1988).

² Equity TIMS is a modified version of OCC's Non-Equity TIMS, which is OCC's margin system used to calculate requirements on options for which the underlying asset is anything but an equity security. Securities Exchange Act Release No. 23167 (April 22, 1986), 51 FR 16127 [File No. SR-OCC-85-21] (order approving Non-Equity TIMS).

³ The Commission has modified the text of the summaries prepared by OCC.