

*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, as amended, were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, as amended, establishes or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to section 19(b)(3)(A)<sup>8</sup> of the Act and subparagraph (e) of Rule 19b-4<sup>9</sup> thereunder. At any time within 60 days of the filing of such 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. 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, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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, 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 PSE. All submissions should refer to File No. SR-PSE-97-03 and should be submitted by March 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Margaret H. McFarland,  
Deputy Secretary.  
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[Release No. 34-38257; File No. SR-PSE-97-04]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Late SIPC Reports**

February 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 28, 1997, the Pacific Stock Exchange, Inc. ("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 PSE.<sup>3</sup> 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 amend paragraph (b)(2) of PSE Rule 2.12, "Financial Reports," and paragraph (k)(2) of PSE Rule 10.13, "Minor Rule Plan," to replace references to "Form SIPC-6" and "Form SIPC-7" with general references to "Securities Investor Protection Corporation ("SIPC") forms and assessments" or "such forms and assessments as are required pursuant to the Securities Investor Protection Act of 1970 ("SIPA")."

The text of the proposed rule change is available at the office of the Secretary, PSE, and at 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 Exchange included statements

<sup>1</sup> 15 U.S.C. § 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> On February 4, 1997, the PSE submitted a technical amendment that (1) designates the provisos in PSE Rule 2.12(b) as (A) and (B); and (2) replaces references in PSE Rules 10.13(j)(2) and 10.13(k)(iii)(2) to PSE Rule 2.12(a) with references to PSE Rule 2.12(b). See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Yvonne Fraticelli, OMS, Division of Market Regulation, Commission, dated February 3, 1997 ("Amendment No. 1").

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 Exchange 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 the Statutory Basis for, the Proposed Rule Change*

(a) Purpose

Currently, PSE Rule 2.12(b)(2) requires members to file with the Exchange a Form SIPC-6 or Form SIPC-7 pursuant to SIPA.<sup>4</sup> PSE Rule 2.12(b)(2) provides a late filing charge for members who fail to file such documents in a timely manner.<sup>5</sup> In addition, PSE Rule 2.12(b)(2) provides that a member who files its Form SIPC-6 or Form SIPC-7 within five business days of receipt of SIPC's final late notice is subject to a fine pursuant to PSE Rule 10.13,<sup>6</sup> and that a member who fails to file its Form SIPC-6 or Form SIPC-7 within five business days after its receipt of SIPC's final late notice is subject to formal disciplinary action pursuant to PSE Rule 10.4, "Hearing."<sup>7</sup>

The Exchange proposes to amend PSE Rules 2.12(b)(2) and 10.13 (j) and (k) to replace references to "Form SIPC-6" and "Form SIPC-7" with general references to "SIPC form and assessment" and "such forms and assessments as are required" pursuant to SIPA. The Exchange is taking this action because SIPC recently has replaced Forms SIPC-6 and SIPC-7 with Form SIPC-4. The Exchange believes that the use of a general reference to SIPC filings, rather than references to specific SIPC forms, will obviate the need for additional rule

<sup>4</sup> See Securities Exchange Act Release Nos. 33347 (December 15, 1993), 58 FR 67888 (December 22, 1993) (order approving File No. SR-PSE-93-21) (adopting charges for late filing of SIPC-6 and SIPC-7 reports); and 32510 (June 24, 1993), 58 FR 335491 (July 1, 1993) (order approving File No. SR-PSE-92-15) (approving amendment to the Exchange's Minor Rule Plan relating to late SIPC reports).

<sup>5</sup> Under PSE Rule 2.12(b)(2), the charge for late filings are as follows: (1) \$200.00 for reports that are 1 to 30 days late; (2) \$400.00 for reports that are 31 to 60 days late; and (3) \$800.00 for reports that are 61 to 90 days late.

<sup>6</sup> The fines under PSE Rule 10.13 are: (1) \$1,200.00 for a first violation; (2) \$1,800.00 for a second violation; and (3) \$2,400.00 for a third violation.

<sup>7</sup> In addition, PSE Rule 10.13(j)(2) provides that the failure to file a Form SIPC-6 or Form SIPC-7 within five days after the receipt of SIPC's final notice will result in a formal disciplinary action.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 19b-4(e).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

changes in the event that SIPC again changes its form. The Exchange also is adding a reference to SIPC "assessments" in order to clarify the subject rules, consistent with the PSE's long-standing interpretation that a SIPC filing with the Exchange is complete only if it includes an assessment.

#### (b) Basis

The PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and with Sections 6(b)(5) and 6(b)(6), in particular, in that it is designed to promote just and equitable principles of trade and to ensure that members will be appropriately disciplined for violations of Exchange rules.

#### (B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE 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 or received.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change and Amendment No. 1 to the rule change constitute a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing PSE rule, the proposal and Amendment No. 1 to the proposal have become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such 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. 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 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-PSE-97-04 and should be submitted by March 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-38253; File No. SR-PSE-97-01]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to the Limitation of Liability in Connection With Indexes on Which Options Are Listed or Traded on the Exchange**

February 6, 1997.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 13, 1997, 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 Exchange is proposing to modify PSE Rule 7.13, which relates to the limitation of liability of the PSE in connection with indexes on which options are listed or traded on the Exchange. The text of the proposed rule

change is available at the Exchange and at 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 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.

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

##### **1. Purpose**

PSE Rule 7.13 currently provides that the Exchange shall have no liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating the index value. The Exchange now proposes to expand this provision in several respects. First, the Exchange proposes to adopt new subsection (a), which will provide that neither the Exchange, any affiliate, nor any Index Licensor or Administrator shall have any liability for any loss, damages, claim, or expense arising from or occasioned by any inaccuracy, error, or delay in, or omission of or from, (i) any index and basket information or (ii) the collection, calculation, compilation, maintenance, reporting or dissemination of any index or any index and basket information, resulting either from any negligent act or omission by the Exchange, any affiliate or any Index Licensor or Administrator or from any act, condition or cause beyond the reasonable control of the Exchange, any affiliate or any Index Licensor or Administrator, including, but not limited to, flood, extraordinary weather conditions; earthquake or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction.

The Exchange also proposes to adopt new subsection (b), which states that neither the Exchange, any affiliate, nor any Index Licensor or Administrator makes any express or implied warranty as to results that any person or party may obtain from using (i) any basket, (ii) the index that is the basis for determining a basket's component

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).