

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).

stocks, or (iii) any index and basket information, for trading or any other purpose. It further states that the Exchange, its affiliates, Index Licensors, and Administrators make no express or implied warranties and disclaim all warranties of merchantability or fitness for a particular purpose or use, with respect to any such basket, index, or information.

The Exchange also proposes to adopt new Commentary .01 to PSE Rule 7.13. This Commentary would provide that, for the purposes of PSE Rule 7.13, "Index Licensor or (and) Administrator" includes any person who: (a) licenses to the Exchange the right to use (i) an index that is the basis for determining the inclusion and relative representation of a basket's component stocks or (ii) any trademark or service mark associated with such an index; (b) collects, calculates, compiles, reports and/or maintains such an index, or index and basket information relating to such an index; (c) provides facilities for the dissemination of index and basket information; and/or (d) is responsible for any of the activities described above.

In addition, the Exchange proposes to adopt new Commentary .02 to PSE Rule 7.13, which would provide that, for the purposes of PSE Rule 7.13, "index and basket information" includes (a) information relating to the inclusion and relative representation of stocks in an index from which a basket is derived, such as an index's values, a basket's component stocks, the weighted summation of the bids or offers of a basket's component stocks, and basket and component stock last sale and quotation information and (b) other information relating to a basket or its index.

The purpose of the rule change proposal is to clarify existing PSE Rule 7.13 and to expand it with regard to potential Exchange liability and with regard to Index Licensors and Administrators. The Exchange notes that the text of proposed PSE Rule 7.13 and Commentaries .01 and .02 is substantially similar to New York Stock Exchange Rule 813.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>2</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>3</sup> in particular in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade.

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

The Exchange believes the proposed rule change will impose no 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 has neither solicited nor received written comments.

### 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 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 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, 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. 10549. Also, copies of such filing will be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-97-01 and should be submitted by March 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

Margaret H. McFarland,  
Deputy Secretary.

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D-11]

### WTO Dispute Settlement Proceeding Regarding Patent Protection in India for Pharmaceuticals and Agricultural Chemicals

AGENCY: Office of the United States  
Trade Representative.

ACTION: Notice; request for comments.

**SUMMARY:** Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine India's failure to make patent protection available for inventions as specified in Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), or provide systems that conform to obligations of the TRIPS Agreement regarding the acceptance of applications and the grant of exclusive marketing rights. More specifically, the United States has requested the establishment of a panel to determine whether India's legal regime is inconsistent with the obligations of the TRIPS Agreement, including but not necessarily limited to Articles 27, 65 and 70. USTR also invites written comments from the public concerning the issues raised in the dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 3, 1997, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

**ADDRESSES:** Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: India Mailbox Dispute, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Thomas Robertson, Associate General Counsel, Office of the General Counsel, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, DC 20508 (202) 395-6800.

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

<sup>3</sup> 15 U.S.C. 78f(b)(5).

<sup>4</sup> 17 CFR 200.30-3(a)(12).