

It should be noted that "an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number."

Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: January 20, 1998.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39582; File Nos. SR-NYSE-98-01; SR-Amex-98-03; SR-BSE-98-01; SR-CHX-98-02; SR-Phlx-98-02]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; American Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Chicago Stock Exchange, Inc.; and Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to an Extension and Modification of Certain Market-Wide Circuit Breaker Provisions

January 26, 1998.

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 January 9, 1998, the New York Stock Exchange, Inc. ("NYSE"); on January 16, 1998, the American Stock Exchange, Inc. ("Amex"); on January 14, 1998, the Boston Stock Exchange, Inc. ("BSE"); on

January 16, 1998, the Chicago Stock Exchange, Inc. ("CHX"); and on January 21, 1998, the Philadelphia Stock Exchange Inc. ("Phlx") (collectively referred to as the "Exchanges"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), proposed rule changes relating to certain market-wide circuit breaker provisions as described in Items I, II, and III below, which items have been prepared by the Exchanges. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. As discussed below, the Commission is also granting accelerated approval of these proposed rule changes.

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

The Exchanges propose to amend the timing and duration of their respective circuit breaker procedures and to extend the circuit breaker pilot program until April 30, 1998.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the Exchanges included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item V below. The self-regulatory organizations have prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Purpose

The Exchanges propose to amend their respective rules relating to "Trading Halts Due to Extraordinary Market Volatility—circuit breakers" to extend the effectiveness of their respective rules and alter the timing and duration of trading halts that occur late in the trading day. In 1988, the Commission approved rule proposals by the Exchanges, along with a policy statement of the National Association of Securities Dealers, Inc. ("NASD"), implementing trading halts during significant market declines ("circuit breakers"). These rules provided for a one hour market-wide trading halt if the Dow Jones Industrial Average³ ("DJIA") declined by 250 points from its previous

day's close, and a two hour halt if, on that same day, it fell 400 points.⁴ Amendments approved by the SEC in July 1996 reduced the duration of the 250 and 400 point halts to one-half hour and one hour, respectively.⁵ Amendments approved in January 1997 increased the trigger values to 350 and 550 points, respectively.⁶ These circuit breakers have been adopted by all U.S. securities markets, and by those commodities markets that trade stock index futures.

On October 27, 1997, these circuit breakers were activated for the first time. The first circuit breaker (thirty minute halt) was activated at 2:35 p.m. After trading resumed at 3:05 p.m., the second circuit breaker (one hour halt) was activated at 3:30 p.m., within the last hour of trading, thereby closing the market for the remainder of the day.

The Commission and the industry continue to discuss possible further refinements to the circuit breaker rules in light of the October 27, 1997 experience. In the interim, the Exchanges⁷ are proposing to amend

⁴ See Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (NYSE, Amex, NASD, and Chicago Board Options Exchange, Inc. ("CBOE")); 26218 (October 26, 1988), 53 FR 44137 (CHX); 26357 (December 14, 1988), 53 FR 51182 (BSE); 26368 (December 16, 1988), 53 FR 51942 (Pacific Stock Exchange, Inc. ("PSE")); 26386 (December 22, 1988), 53 FR 52904 (Phlx); and 26440 (January 10, 1989), 54 FR 1830 (Cincinnati Stock Exchange, Inc. ("CSE")).

⁵ See Exchange Act Release Nos. 37457 (July 19, 1996), 61 FR 39176 (NYSE); 37458 (July 19, 1996), 61 FR 39167 (Amex); and 37459 (July 19, 1996), 61 FR 39172 (BSE, CBOE, CHX, and Phlx).

⁶ See Exchange Act Release No. 38221 (January 31, 1997), 62 FR 5871 (February 7, 1997) (NYSE, Amex, CBOE, CHX, BSE, and Phlx). The Commission approved each of the Exchanges' revised circuit breaker rules on a one-year pilot basis which will expire on January 31, 1998. See *id.* at 5874.

⁷ The CBOE, CSE, Pacific Exchange, Inc. ("PCX", formerly PSE), and the NASD have general rules that require them to halt trading during a triggering of the intermarket circuit breakers. Consequently, they do not need to file conforming rule changes because their circuit breaker halts will conform automatically to the halt periods adopted by the other exchanges. See letters to Howard L. Kramer, Senior Associate Director, Office of Market Supervision, Division of Market Regulation, Commission, from David P. Semak, Vice President of Regulation, PCX, dated January 13, 1998; from Adam W. Gurwitz, Vice President Legal and Corporate Secretary, CSE, dated January 22, 1998; from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, dated January 23, 1998 ("NASD letter"); from Arthur B. Reinstein, Assistant General Counsel, CBOE, dated January 23, 1998.

The NASD's policy statement expired on December 31, 1997. The Commission, however, has received both oral and written representations from the NASD that it will continue to follow, upon request by the Commission, a trading halt during the triggering of the intermarket circuit breakers. See NASD letter, *supra*. The Commission notes that it has a standing request with the NASD to halt trading as quickly as practicable whenever the

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.

their respective trading halts rules with regard to the timing and duration of trading halts. Under the proposal, if the first circuit breaker (down 350 points) is reached prior to 3:00 p.m.,⁸ trading would be halted for one-half hour. If the first circuit breaker is reached at or after 3:00 p.m., trading on the Exchange would continue uninterrupted until the second circuit breaker (down 550 points) is reached. If the second circuit breaker is reached prior to 2:00 p.m., trading on the Exchange would halt for one hour. If the second circuit breaker is reached at or after 2:00 p.m. but before 3:00 p.m., trading on the Exchange would halt for 30 minutes instead of one hour. If the second circuit breaker is reached at or after 3:00 p.m., trading on the Exchange would halt for the remainder of the trading day.⁹ The Exchanges seek to effect these changes on a pilot basis until April 30, 1998. The futures exchanges trading stock index futures have proposed analogous circuit breaker proposals with the Commodity Futures Trading Commission ("CFTC") to halt trading in such contracts.¹⁰

2. Statutory Basis

The basis under the Act for the proposed rule changes is the requirement under Section 6(b)(5)¹¹ that an Exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 changes are consistent with Section 6(b)(5) of the Act in that they are designed to promote just and equitable principles of trade. The Exchanges believe that modifying the timing and duration of the circuit breakers, as well as extending the circuit breaker pilot program is consistent with these objectives in that the proposed rules provide a balance between the need to halt trading temporarily during periods of extraordinary market volatility with the need to provide an open marketplace for trading securities.

B. Self-Regulatory Organizations' Statement on Burden on Competition

The Exchanges do not believe that any burden will be placed on competition as a result of the proposed rule changes.

C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received from Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed rule changes.

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

The Exchanges request that the Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving these modifications and extensions to the circuit breaker rules prior to the 30th day after publication of the proposed rule changes in the **Federal Register**.

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

After careful review of the Exchanges' proposed amendments to the circuit breaker rules and for the reasons discussed below, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular with the requirements of Section 6(b).¹² Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed 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.¹³

¹² 15 U.S.C. 78f(b).

¹³ In approving these rules, the Commission has considered the proposed rules' impact on

In 1988, the Commission approved the Exchanges' circuit breaker proposals, along with the NASD's circuit breaker policy statement, because the Commission believed that the proposed circuit breaker rules would help promote stability in the equity and equity-related markets by providing for an enhanced opportunity for market participants to assess information during times of extreme market movements.¹⁴ The proposals, in part, were in response to the events of October 19, 1987, when the DJIA declined 22.6%. The Commission believed that the circuit breaker proposals would provide market participants with an opportunity during a severe market decline to reestablish an equilibrium between buying and selling interest in a more orderly fashion. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.¹⁵

On October 27, 1997, the DJIA experienced a decline of 554 points, or 7.2%. The first circuit breaker of one-half hour was triggered at 2:35 p.m. when the DJIA declined 350 points from the previous day's closing value. After the market reopened at 3:05 p.m., the DJIA continued to decline another 200 points, triggering the second circuit breaker at 3:30 p.m. Because the second circuit breaker was triggered at 3:30, within the last hour of trading, the market was closed for the remainder of the day. The triggering of the circuit breakers when the markets were operating smoothly, the rapid decline of the market that followed the reopening after the first circuit breaker was activated, and the early close of trading that occurred as a result of the second circuit breaker being triggered after 3:00, have prompted the markets to re-evaluate the operation of circuit breakers. While the markets determine how to modify the trigger levels to return them to levels consistent with their original design, they propose to extend the existing breakers, at the 350 and 550 point level, for three months. In addition, the current proposal reflects the Exchanges' consensus as to a circuit breaker timing mechanism that is preferable to the

efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ See Exchange Act Release No. 26198, *supra* note 4.

¹⁵ See letters to Jean A. Webb, Secretary, CFTC, from Todd E. Petzel, Vice President, Financial Research, CME, dated September 1, 1988; from Paul J. Draths, Vice President and Secretary, CBOT, dated July 29, 1988; from Milton M. Stein, Vice President, Regulation and Surveillance, NYFE, dated September 2, 1988; and Michael Braude, President, KCBT, dated August 10, 1988.

NYSE and other equity markets have suspended trading. The Exchanges' proposed rule changes do not affect the Commission's standing request.

⁸ All time references are to Eastern time.

⁹ The NYSE has requested that the Commission extend the "safe harbor" provisions of Rule 10b-18 under the Exchange Act to cover corporate repurchases effected at the reopening on the day of the halt, during the last half-hour prior to the scheduled close of trading on the day of the halt, and at the next day's opening if the market-wide halt is in effect at the scheduled close of trading, provided that the other restrictions in Rule 10b-18 are met in the execution of any repurchase order. See letter to Jonathan Katz, Secretary, Commission, from James E. Buck, Senior Vice President and Secretary, NYSE, dated January 8, 1998.

¹⁰ See letters to Jean A. Webb, Secretary, CFTC, from Richard J. McDonald, Vice President, Research, Chicago Mercantile Exchange ("CME"), dated January 8, 1998; from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade ("CBOT"), dated January 9, 1998; from June Furlan, Vice President and Chief Economist, New York Futures Exchange, Inc. ("NYFE"), dated January 12, 1998; and from Jeff C. Borchardt, Senior Vice President, Kansas City Board of Trade, Inc. ("KCBT"), dated January 13, 1998.

¹¹ 15 U.S.C. § 78f(b)(5).

current procedure for circuit breakers that trigger at 350 and 550 points late in the trading day. The Commission notes that the Exchanges' proposal will operate only until April 30, 1998, requiring the Exchanges to revise circuit breaker procedures by then to return them to their original design.

The Commission believes that the extension of the current levels for a brief period is reasonable in order to provide sufficient time for the markets to amend their circuit breakers to trigger only during a severe market decline of historic proportions. The revisions to the current procedures are appropriate to prevent the markets from closing for the day at a decline of only 4.55%, represented by 350 points.¹⁶

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication to the notice thereof in the **Federal Register** because the current pilot program will expire on January 31, 1998, and accelerated approval will enable the pilot to continue on an uninterrupted basis. The Commission realizes that under normal circumstances the proposed modifications would be published for notice and comment in the **Federal Register**. Give the near expiration of the pilot, however, the Commission believes that accelerated approval is appropriated to keep circuit breakers in place until the markets have finished their re-evaluation of the broader circuit breaker issues. This should be done very quickly. Hence, the Commission is approving on a pilot basis the continuation of the current circuit breaker levels and the adoption of the timing and duration modifications only until April 30, 1998. The Commission believes that approving the Exchanges' continuation of circuit breaker rules on a pilot basis (with certain changes for late in the day halts) will facilitate further discussion on modifying circuit breaker levels, thus giving the Exchanges' adequate time to resolve this issue in the upcoming months. Accordingly, the Commission finds that it is consistent with Sections 6(b) and 19(b)(2) of the Act to approve these proposed rule changes on an accelerated basis.

The Commission also believes that the circuit breaker mechanisms must be coordinated across the U.S. equity, futures and options markets to be effective in times of extreme market volatility.¹⁷ Therefore, to ensure

¹⁶ This percentage is based on the DJIA close on January 23, 1998.

¹⁷ The Exchanges' proposals are contingent on other markets adopting similar proposals. In this

continued market coordination, the Exchanges' proposal will become effective simultaneously, upon the termination of the current pilot program, and will take effect on February 1, 1998.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of each Exchange. All submissions should refer to File No. SR-NYSE-98-01, SR-AMEX-98-03, SR-BSE-98-01, SR-CHX-98-02, and SR-Phlx-98-02, and should be submitted by February 23, 1998.

VI. Conclusion

For the foregoing reasons, the Commission believes the proposal by the Exchanges to revise their trading halt provisions are consistent with section 6(b)(5) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule changes (SR-NYSE-98-01, SR-Amex-98-03, SR-BSE-98-01, SR-CHX-98-02, and SR-Phlx-98-02) are approved and effective on February 1, 1998 until April 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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regard, the Commission notes that all of the existing U.S. stock and options exchanges, as well as the NASD, have either submitted revised circuit breaker pilot programs or have agreed to comply with the provisions of such programs. The futures exchanges are also adopting analogous trading halts procedures to maintain the existing coordinated means to address potentially destabilizing market volatility. Thus, the Commission believes the contingency is satisfied.

¹⁸ 15 U.S.C. § 78s(b)(2).

¹⁹ 17 CFR 200.3-3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Federal Interagency Committee on Aircraft Noise Meeting Agenda

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public forum.

SUMMARY: The FAA is issuing this notice to advise the public of a forum sponsored by the Federal Interagency Committee on Aircraft Noise (FICAN) to discuss aircraft noise issues.

DATES: The forum will be held on March 18, 1998, from 9:30 a.m. to 4:00 p.m.

ADDRESSES: The forum will be held at the Federal Aviation Administration Headquarters, 800 Independence Avenue, SW, Washington, DC 20591, in Auditorium FOB-10A.

FOR FURTHER INFORMATION CONTACT: James R. Littleton Jr., Analysis and Evaluation Branch (AEE-120), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, fax (202) 267-5594.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public forum sponsored by the Federal Interagency Committee on Aircraft Noise (FICAN) to be held on March 18, 1998.

On March 16, 1993, representatives of the agencies that participated on the Federal Interagency Committee on Noise (FICON) met and agreed to establish a standing committee to be known as FICAN. The standing interagency committee will provide a permanent aviation noise research and development (R&D) forum, which will assist agencies in providing adequate forums for discussion of public and private proposals, identify needed research, and encourage R&D efforts in these areas. FICAN held its last public forum on May 13, 1997 in Minneapolis, Minnesota. The public forum consisted of presentations by the FICAN members on current and future aircraft noise research projects, followed by an open comment and discussion period.

The agenda for the upcoming meeting will include:

- Presentation of current and future aircraft noise research projects that are funded by the Federal members of FICAN.

- Public concern/discussion and comment period.

Attendance is open to the public, but will be limited to the space available. The public must make arrangements by March 6, 1998 to present oral statements at the forum. Arrangements may be