

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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 also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-99-12 and should be submitted by December 22, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42174; File No. SR-NYSE-99-45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Amending List of Exchange Rule Violations and Fines Applicable Thereto

November 23, 1999.

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 November 10, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items

have been prepared by the Exchange. 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 NYSE proposes to revise the List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A ("List") for imposition of fines for minor violations of rules and/or policies by adding to the List; (1) Failure to comply with the provisions of Rule 97(a) relating to purchases by a member of additional shares of stock on a "plus" or "zero-plus" tick when it holds a long position in the stock as a result of an earlier block trade with a customer; and (2) failure to comply with Expiration Day Auxiliary Opening Procedures. The Exchange believes it is appropriate to make the failure to comply with the provisions of the above-named rule and procedure subject to the possible imposition of a fine under Rule 476A procedures. The text of the proposed rule change is available at the Office of the Secretary, NYSE 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 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 and is set forth in Sections A, B, and C below.

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

1. Purpose

Rule 476A provides that the Exchange may impose a fine, not to exceed \$5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules. The purpose of the Rule 476A procedure is to provide for a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under Rule 476 would be more costly and time-consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory

response than a cautionary letter would convey. Rule 476A preserves due process rights, identifies those rule violations which may be the subject of summary fines, and includes a schedule of fines. In SR-NYSE-84-27,³ which initially set forth the provisions and procedures of Rule 476A, the Exchange indicated it would amend the list of rules from time to time, as it considered appropriate, in order to phase-in the implementation of Rule 476A as experience with it was gained.

The Exchange is seeking approval to add to the List of Rules subject to imposition of fines under Rule 476A procedures the failure by members or member organizations to comply with the provisions of: (1) Rule 97(a) which prohibits a member organization that holds a long position in a stock in its trading account resulting from a block transaction it effected with a customer from purchasing, for an account in which the member organization has a direct or indirect interest, additional shares of such stock on a "plus" or "zero plus" tick under certain conditions for the remainder of the trading day⁴ and (2) Expiration Day Auxiliary Opening Procedures which provide that the Exchange, as soon as practicable, after 9:00 a.m. on expiration days, will publish market order imbalances of 50,000 shares or more in all stocks, may publish imbalances of less than 50,000 shares at that time with Floor Official approval, and will not publish a "no imbalance" status for any stock.⁵

The purpose of the proposed change to Rule 476A is to facilitate the Exchange's ability to induce compliance with all aspects of the above-cited rules. The Exchange believes failure to comply with the requirements of the rule and procedures should be addressed with an appropriate sanction and is adding violations of these requirements to the List so as to have a broad range of regulatory responses available. The Exchange believes that this would more effectively encourage compliance by enabling a prompt, meaningful and heightened regulatory response (*i.e.*, the issuance of a fine rather than a cautionary letter) to a minor violation of a rule.

The Exchange wishes to emphasize the importance it places upon

³ Securities Exchange Act Release No. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985) (approving SR-NYSE-84-27).

⁴ See Securities Exchange Act Release No. 41500 (June 9, 1999), 64 FR 32596 (June 17, 1999).

⁵ See NYSE Information Memoranda No. 96-34 (November 8, 1996) and No. 99-37 (July 19, 1999) for a discussion of Expiration Day Auxiliary Opening Procedures.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

compliance with the above-named rules. While the Exchange, upon investigation, may determine that a violation of any of these rules is a minor violation of the type which is properly addressed by the procedures adopted under Rule 476A, in those instances where investigation reveals a more serious violation of the above-described rules, the Exchange will provide an appropriate regulatory response, such as suspension, expulsion, limitation of activities, etc. This includes the full disciplinary procedures available under Rule 476.

2. Statutory Basis

The NYSE believes that this proposal will advance the objectives of Section 6(b) of the Act⁶ in general and further the objectives of Section 6(b)(6)⁷ in particular in that it will provide a procedure whereby member organizations can be "appropriately disciplined" when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The proposed rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of Sections 6(b)(7)⁸ and 6(d)(1)⁹ of the Act.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

This proposed rule change is filed pursuant to Section 19(b)(3)(A)(i) of the Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹ The proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the

protection of investors and the public interest provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, which the NYSE did in this instance.

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.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549-0609. 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 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to SR-NYSE-99-45 and should be submitted by December 22, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42177; File No. SR-PCX-99-47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to an Increase in the Market Maker Ticket Data Entry Fee

November 23, 1999.

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 November 5, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 PCX proposes to change its Schedule of Fees and Charges to increase its Market Maker Ticket Data Entry Fee from \$0.25 per trade of \$0.50 per trade.

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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, PCX Market Makers pay a Ticket Data Entry Fee of \$0.25 per trade. The Ticket Data Entry Fee is charged to a Market Maker for every manual ticket transaction that is entered by the Order Book Official into PCX's Pacific Options

⁶ 15 USC 78f(b).

⁷ 15 USC 78f(b)(6).

⁸ 15 USC 78f(b)(7).

⁹ 15 USC 78(d)(1).

¹⁰ 15 USC 78s(b)(3)(A)(i).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 USC 78c(f).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.