

The Exchanges currently propose to increase the hedge exemption to three times the applicable position limits. According to the Exchanges, as institutional accounts are unable to fully hedge their stock holdings due to the restrictive limits, investors are unnecessarily forced to keep a portion of their portfolio at risk. The Commission believes that the Exchanges' proposal to expand the hedge exemption is an appropriate method to accommodate the identified needs of options market participants. By increasing the hedge exemption, the Commission believes, large hedge funds and institutional accounts will be provided with the means necessary to adequately hedge their stock holdings without adding risk to the options market.

Lastly, the Commission notes that despite an appreciable growth in equity options trading and the sophisticated and automated surveillance procedures employed by the Exchanges, the last change in position limits occurred in 1993. Based on the Exchanges' experience, the Commission believes that the proposed increased hedge exemption and additional limit tiers should result in little or no additional risk to the marketplace.²⁸

The Commission finds good cause to approve the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, by accelerating the approval of the Exchanges' rule proposals, the Commission is conforming the Exchanges' position and exercise limits with those levels recently approved for the CBOE.²⁹ Accelerated approval of the proposed rule changes will thereby provide for the desired uniformity of the exchanges' position and exercise limits as well as hedge exemption rules. Any other course of action could lead to unnecessary investor confusion. In addition, the CBOE's proposal was noticed for the entire twenty-one day comment period and generated no negative responses.³⁰ Accordingly, the

approving File Nos. SR-NYSE-95-04, SR-PSE-95-05, SR Amex-95-13, and SR-Phlx-95-10).

²⁸ The Commission notes that to the extent the potential for manipulation increases because of the additional tiers and expanded hedge exemption, the Commission believes the Exchanges' surveillance programs will be adequate to detect as well as to deter attempted manipulative activity. The Commission will, of course, continue to monitor the Exchanges' surveillance programs to ensure that problems do not arise.

²⁹ See CBOE Approval Order, *supra* note 7.

³⁰ In response to the CBOE's proposal, the Commission received two comment letters. Both comment letters were generally supportive of the CBOE's proposed rule change, and are described

Commission believes that it is consistent with Section 6(b)(5) of the Act to approve the proposed rule changes on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2)³¹ of the Act that the proposed rule changes (File Nos. SR-NYSE-95-31, SR-PSE-95-25, SR-Amex-95-42, and SR-Phlx-95-71) are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³²

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36407; File No. SR-NYSE-95-32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Additions to the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A."

October 23, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 1, 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 rule change revises the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" by adding order entry and cancellation procedures for market-at-the-close ("MOC") orders on non-expiration days (expiration day procedures for MOC orders are already included) and for limit-at-the-close ("LOC") orders for expiration and non-expiration days. The rule change also

more fully in the CBOE Approval Order, *supra* note 7.

³¹ 15 U.S.C. § 78s(b)(2) (1988).

³² 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1).

amends the NYSE's Minor Rule Violation Enforcement and Reporting Plan ("Plan") to include these entry and cancellation procedures for MOC and LOC orders.² The Exchange believes that a violation of the above-named rules merit possible imposition of a fine under Rule 476A procedures.

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

Rule 476A³ provides that the Exchange may impose a fine, not to exceed \$5,000,⁴ on any member,

² See Letter from Daniel Parker Odell, Assistant Secretary, NYSE, to Glen Barrentine, Team Leader, Division of Market Regulation, SEC, dated October 1, 1995.

³ Rule 476A was approved by the Commission on January 25, 1985. See Securities Exchange Act Release No. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985). Subsequent additions of rules to the Rule 476A Violations List were made in Securities Exchange Act Release Nos. 22037 (May 14, 1985), 50 FR 21008 (May 21, 1985); 23104 (April 11, 1986), 51 FR 13307 (April 18, 1986); 24985 (October 5, 1987), 52 FR 41643 (October 29, 1987); 25763 (May 27, 1988), 53 FR 20925 (June 7, 1988); 27878 (April 4, 1990), 55 FR 13345 (April 10, 1990); 28003 (May 8, 1990), 55 FR 20004 (May 14, 1990); 28505 (October 2, 1990), 55 FR 41288 (October 10, 1990); 28995 (March 21, 1991), 56 FR 12967 (March 28, 1991); 30280 (January 22, 1992), 57 FR 3452 (January 29, 1992); 30536 (March 31, 1992), 57 FR 12357 (April 9, 1992); 32421 (June 7, 1993), 58 FR 32973 (June 14, 1993); 33403 (December 28, 1993), 59 FR 641 (January 1, 1994); 33816 (March 25, 1994), 59 FR 15471 (April 1, 1994); 34230 (June 17, 1994), 59 FR 32727 (June 24, 1994); and 34327 (July 7, 1994), 59 FR 35956 (July 14, 1994).

⁴ Fines imposed pursuant to Rule 476A in excess of \$2,500 are deemed final, and therefore are subject to the reporting requirements of section 19(d)(1) of the Act and Rule 19d-1(c) thereunder. Pursuant to Rule 19d-1(c)(1), and SRO is required to file promptly with the commission notice of any "final" disciplinary action taken by that SRO. Any disciplinary action taken by an SRO for a violation of an SRO rule, which has been designated as a minor rule violation pursuant to a Commission approved plan, however, shall not be considered "final" if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person does not seek an adjudication, including a hearing, or

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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 response to a rule violation when a meaningful sanction is appropriate, but when initiation of a disciplinary proceeding under Rule 476 is not suitable because such a proceeding would be more costly and time-consuming than would be warranted given the minor nature of the violation. Rule 476A provides for an appropriate response to minor violations of a certain Exchange rules or policies, while preserving the due process rights of the party accused through specified, required procedures. The list of rules that are eligible for 476A procedures specifies those rule violations that may be the subject of fines under the rule and also includes a schedule of fines.

In File No. SR-NYSE-84-27, which initially set forth the provisions and procedures of Rule 476A,⁵ 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 presently adding to the list of rules subject to possible imposition of fines under Rule 476A procedures the failure by members or member organizations to adhere to the order entry and cancellation procedures for MOC orders on non-expiration days⁶ and for LOC orders on expiration and non-expiration days.⁷ MOC order entry

otherwise exhaust his or her administrative remedies. By deeming that unadjudicated minor rule violations are not final, the Commission permits the SRO to report such violations on a periodic basis. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23838 (June 8, 1984).

⁵ See Securities Exchange Act Release No. 21688, *supra*, note 3.

⁶ The closing procedures for non-expiration days require that all MOC orders be entered, reduced or cancelled no later than 3:50 p.m. As soon as practicable after 3:50, the specialist must disseminate any MOC order imbalance of 50,000 shares or more in certain so-called pilot stocks, stocks being added to or dropped from an index and, upon the request of a specialist, any other stock with the approval of a Floor Official. After 3:50 p.m., MOC orders may be entered in any stock in which there is a published imbalance, but only to offset the imbalance. See Securities Exchange Act Release No. 35589 (April 10, 1995), 60 FR 19313 (April 17, 1995) (order approving File No. SR-NYSE-94-44).

⁷ The closing procedures for non-expiration and expiration days allow LOC orders to be entered up to 3:55 p.m., but only to offset a published imbalance of MOC orders in that stock. Moreover, on expiration days LOC orders are irrevocable after 3:40 p.m., while on non-expiration days LOC orders

and cancellation procedures for expiration days are already included in the Rule 476A List.⁸ The Exchange is also amending its Minor Rule Violation and Reporting Plan to include these entry and cancellation procedures for MOC and LOC orders.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(6) of the Act⁹ in that it will provide a procedure whereby member organizations can be "appropriately disciplined" in those instances when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of Sections 6(b)(7) and 6(d)(1) of the Act.¹⁰

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

The Exchange does not believe that the 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 Action

Because the foregoing 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 from October 1, 1995, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and subparagraph (e)(6) of Rule 19b-4 thereunder.¹²

At any time within 60 days of the filing of such rule change, the

are irrevocable after 3:55 p.m. See Securities Exchange Act Release No. 35854 (June 16, 1995), 60 FR 32723 (June 23, 1995) (order approving File No. SR-NYSE-95-09).

⁸ See Securities Exchange Act Release No. 33403 (December 28, 1993), 59 FR 641 (January 5, 1994) (order approving File No. SR-NYSE-93-35).

⁹ 15 U.S.C. 78f(b)(6).

¹⁰ 15 U.S.C. 78f(b)(7) and 78f(d)(1).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4.

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 at 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 the New York Stock Exchange, Inc. All submissions should refer to File No. SR-NYSE-95-32 and should be submitted by November 21, 1995.

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

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2813]

Florida; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on October 4, 1995, and amendments thereto on October 6, 8, 12, 13, 16 and 17, I find that Bay, Escambia, Franklin, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Washington, and Walton Counties in the State of Florida constitute a disaster area due to damages caused by Hurricane Opal which occurred on October 4, 1995 through October 11; and Collier and Lee Counties for damages which occurred on October 4 and continuing. Applications for loans for physical damages may be filed until the close of

¹³ 17 CFR 200.30-3(a)(12).