

displayed on the national market system at the time the order is received.<sup>2</sup>

The following examples illustrate how NYSE PRIME is proposed to work.

Assume the NYSE market quote is 50-50 $\frac{1}{4}$ .

*Example 1* A market order to sell 1000 shares, entered on the NYSE, is stopped at 50, meaning it is guaranteed to sell at 50 or a better price. The quote is narrowed to 50-50 $\frac{1}{8}$  and the order is subsequently executed at 50 $\frac{1}{8}$ . This is an  $\frac{1}{8}$  point savings over the guaranteed (stopped) price of 50, which translates into \$125 savings over the guaranteed price. Thus, the execution report would display NYSE PRIME \$125.<sup>3</sup>

Assume the national market quote is 50-50 $\frac{1}{4}$ .

*Example 2* A market order to buy 800 shares, entered on the NYSE, is executed at 50 $\frac{1}{8}$ . This is an  $\frac{1}{8}$  point savings over taking the prevailing offer of 50 $\frac{1}{4}$ . The execution report would display NYSE PRIME \$100.

Assume the NYSE market quote is 50-50 $\frac{1}{8}$ -20,000 by 1,000.

*Example 3* A market order to sell 1,000 shares is entered on the NYSE. Because the large imbalance on the bid side suggests a likelihood that the subsequent transaction will be on the offer side, the sell order is stopped at 50, meaning it is guaranteed to sell at 50 or a better price. The offer is increased to 2,000 shares at 50 $\frac{1}{8}$ . Subsequently, another order comes in to buy 2,000 shares at 50 $\frac{1}{8}$  and the stopped order to sell is executed at 50 $\frac{1}{8}$ . This is an  $\frac{1}{8}$  point savings over the guaranteed (stopped) price of 50, which translates into \$125 savings over the guaranteed price. Thus, the execution report would display NYSE PRIME \$125.

Assume the national market quote is 50-50 $\frac{1}{8}$ -1,000 by 1,000.

*Example 4* A market order to sell 1,000 shares, entered on the NYSE, comes in at the same time as a market order to buy 2,000 shares. Both orders are executed at 50 $\frac{1}{8}$ . This is an  $\frac{1}{8}$  point price improvement for the 1,000 share sell order, which otherwise would have been executed at the bid price of 50. Thus, its execution report would display NYSE PRIME \$125.

If there is no price improvement because either there was no savings over the prevailing quote/guaranteed price or the order was not eligible for the pilot, then no price improvement information would be displayed on the execution report to the entering firm.

The Exchange believes that the NYSE PRIME can be expected to enhance the information made available to investors and improve their understanding of the auction market. The Exchange is proposing to test and evaluate this

<sup>2</sup>For stocks that are not ITS-eligible, the NYSE quote is used.

<sup>3</sup>The algorithm that calculates the savings per share can calculate price improvement for a minimum of  $\frac{1}{32}$  or \$0.03125 per share to a maximum of  $\frac{9}{32}$  or \$3.00 per share. If price improvement exceeds \$3.00 per share, the NYSE PRIME will be preceded by a ">" sign and will equal \$3.00  $\times$  the number of shares traded.

service by conducting a six-month pilot to ensure that the program is viable and that the data are accurate before making the program available to all member organizations. During this period, the Exchange will make whatever refinements are necessary to the service before making it generally available to member firms.

## 2. Statutory Basis

The basis under the Act for this rule change is the requirement under Section 6(b)(5) that an exchange have rules that are 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. This rule change is designed to perfect the mechanism of a free and open market in that it enhances the information provided to investors by displaying to them the dollar value of the price improvement their orders may have received when executed on the NYSE.

### *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. In fact, the Exchange believes that the NYSE PRIME program can reasonably be expected to enhance competition by disclosing to investors the amount of savings they may realize as a result of the price improvement their orders may receive with executed on the NYSE.

### *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 rule change.

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

This rule change is filed pursuant to paragraph (A) of Section 19(b)(3) of the Act, and paragraphs (e)(5) (i), (ii), and (iii) of Rule 19b-4 thereunder. The NYSE PRIME program will entail enhancements to the Exchange's CMS (common message switch), SuperDOT and Post Trade systems. This program does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and does not have the effect of limiting access to or availability of any Exchange order enter

or trading system. As such, this rule change may take effect immediately upon filing with the Commission. At any time within 60 days of the filing of such 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 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. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-95-35 and should be submitted by November 22, 1995.

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

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36416; File No. SR-NYSE-95-33]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange, Inc., Relating to Additions to List of Rule Violations and Fines Administered Pursuant to NYSE Rule 476A**

October 25, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 2, 1995,

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 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 NYSE proposes to add the following options rules to the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" ("Rule 476 List"): (1) the requirement under NYSE Rule 750(e)(i) that options specialists establish bid/ask spreads no greater than the maximum permitted Competitive Options Traders ("COTs"), based on the price of the option or the bid/ask differential of the underlying security; (2) the requirement under NYSE Rule 758(b)(i)(C)(1) that COTs establish bid/ask spreads within specified parameters, based on the price of the option or the bid/ask differential of the underlying security; (3) the requirement under NYSE Rule 780(b)(i) that members and member organizations indicate to the Exchange the final decisions of equity option holders to exercise or not to exercise expiring equity options by a specified time; and (4) the requirement under NYSE Rule 780(f) that members and member organizations make, keep, and file with the Exchange records concerning every final exercise decision for which a contrary exercise advice is required.<sup>1</sup> The NYSE also plans to amend its 19d-1 reporting plan<sup>2</sup> for NYSE Rule 476A

<sup>1</sup> A contrary exercise advice is a form that the Exchange prescribes for use by a member or member organization to convey a final exercise decision of an equity option holder either (1) not to exercise an equity option that would otherwise be exercised automatically pursuant to the exercise-by-exception procedure of Options Clearing Corporation Rule 805; or (2) to exercise an equity option that would otherwise not be so exercised.

<sup>2</sup> Pursuant to Rule 19d-1(c)(1) under the act, a self-regulatory organization ("SRO") is required to file promptly with the Commission notice of any "final" disciplinary action taken by that SRO. Pursuant to Rule 19d-1(c)(2), however, 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, 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 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. The Commission approved the NYSE's minor rule plan, contained in NYSE Rule

violations to include the rules added to the Rule 476A List.<sup>3</sup>

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 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

###### (a) Purpose

NYSE Rule 476A<sup>4</sup> provides that the Exchange may impose a fine, not to

476A, in 1985. See Securities Exchange Act Release No. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985) (ordered approving File No. SR-HYSE-84-27) ("Minor Rule Plan Approval Order"). Accordingly, the Exchange is relieved of current reporting requirements under Section 19(d)(1) with respect to those disciplinary actions taken pursuant to NYSE Rule 476A.

<sup>3</sup> See Letter from Daniel Parker Odell, Assistant Secretary, NYSE, to Glen Barrentine, Senior Counsel, Division of Market Regulation, Commission, dated September 29, 1995.

<sup>4</sup> NYSE Rule 476A was approved by the Commission on January 25, 1985. See Minor Rule Plan Approval Order, *supra* note 2. Subsequent additions of rules to the Rule 476A List were approved in Securities Exchange Act Release Nos. 22307 (May 14, 1985), 50 FR 21008 (May 21, 1985) (order approving File No. SR-NYSE-85-15); 23104 (April 11, 1986), 51 FR 13307 (April 18, 1986) (order approving File No. SR-NYSE-86-12); 24895 (October 5, 1987), 52 FR 41643 (October 29, 1987) (order approving File No. SR-NYSE-86-21); 25763 (May 27, 1988), 53 FR 20925 (June 7, 1988) (order approving File No. SR-NYSE-87-10); 27878 (April 4, 1990), 55 FR 13345 (April 10, 1990) (order approving File No. SR-NYSE-89-44); 28003 (May 8, 1990), 55 FR 20004 (May 14, 1990) (order approving File No. SR-NYSE-91-09); 28505 (October 2, 1990), 55 FR 41288 (October 10, 1990) (order approving File No. SR-NYSE-90-04); 28995 (March 21, 1991), 56 FR 12967 (March 28, 1991) (order approving File No. SR-NYSE-91-04); 30280 (January 22, 1992), 57 FR 3452 (January 29, 1992) (order approving File No. SR-NYSE-91-38); 30536 (March 31, 1992), 57 FR 12357 (April 9, 1992) (order approving File No. SR-NYSE-91-42); 32421 (June 7, 1993), 58 FR 32978 (June 14, 1993) (order approving File No. SR-NYSE-93-24); 33403 (December 28, 1993), 59 FR 641 (January 5, 1994) (order approving File No. SR-NYSE-95-35); 33816 (March 25, 1994), 59 FR 15471 (April 1, 1994) (order approving File No. SR-NYSE-93-27); and 34230 (June 17, 1994), 59 FR 32727 (June 24, 1994) (order approving File No. SR-NYSE-94-05).

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 NYSE rules.

The purpose of the NYSE Rule 476A procedure is to provide for a response to a rule violation when a meaningful sanction is appropriate but when the initiation of a disciplinary proceeding under NYSE Rule 476, "Disciplinary Proceedings Involving Charges Against Members, Member Organizations Allied Members, Approved Persons, Employees, or Others," 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. NYSE Rule 476A provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures. The Rule 476A List specifies those rule violations which may be the subject of fines under the rule and also includes a fine schedule.

In the Minor Rule Plan Approval Order,<sup>5</sup> which initially set forth the provisions and procedures of NYSE 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 NYSE Rule 476A as experience with it was gained.

The Exchange presently seeks approval to add to the list of rules subject to possible imposition of fine under NYSE Rule 476A procedures the failure by members or member organizations to comply with various options rules. Specifically, these include NYSE Rule 750(e)(i) and 758(b)(i)(C) (1), which establish maximum bid/ask spreads which options specialists and COTs may make based on the price of the option or the bid/ask differential of the underlying security; NYSE Rule 780(b)(i), which requires members and member organizations to indicate final decisions of equity options holders either to exercise or not to exercise expiring equity options by a specified time; and NYSE Rule 780(f), which requires members and member organizations to make, keep, and file with the Exchange records with respect to final exercise decisions made with respect to options in certain circumstances.

The NYSE notes that while the Exchange, upon investigation, may determine that a violation of these procedures is a minor violation of the

<sup>5</sup> See note 2, *supra*.

type which is properly addressed by the procedures adopted under NYSE 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.

#### (b) Statutory Basis

The NYSE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and, in particular, with Section 6(b)(6), 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 NYSE believes that the proposal 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.

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

The NYSE 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 Action

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five business days prior to the filing date; and (4) does not become operative for 30 days after October 2, 1995, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Commission believes that the proposal does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. 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 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36424; File No. SR-PSE-95-26]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Amendment of the Schedule of Rates for Exchange Services

October 26, 1995.

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 October 17, 1995, 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 self-regulatory organization. The

<sup>6</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

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 amend its Schedule of Rates to reduce option transaction charges for certain customer block trades. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and 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 PSE 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 PSE 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

Under the Exchange's current Schedule of Rates, for manually executed options transactions, customers are charged \$0.35 per contract side where the premium is \$1 or more per contract. The Exchange is proposing to establish a rate of \$0.25 per contract side where the premium is \$1 or more per contract for the first 400 such contracts in a block trade. The Exchange is also proposing that the new rate take effect for the November 1995 trade month, and that it continue thereafter for an indefinite duration.

According to the PSE, the purpose of the proposed rule change is to assure that the Exchange's customer transaction charges are fair and competitive.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general,<sup>3</sup> and furthers the objectives of Section 6(b)(4) in particular,<sup>4</sup> in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the

<sup>3</sup> 15 U.S.C. 78f(b) (1988).

<sup>4</sup> 15 U.S.C. 78f(b)(4) (1988).