

likelihood that the Fund and its shareholders will benefit from the Joint Account arrangement, and no Participant will be treated on a less advantageous basis than another.

12. The Future Funds will be permitted to participate in the Joint Account only on the same terms and conditions as the Funds have set forth herein.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

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[Release No. 34-37024; File No. 600-25]

**Self-Regulatory Organizations;
Participants Trust Company; Order
Granting Approval of Application for
Extension of Temporary Registration
as a Clearing Agency**

March 26, 1996.

On February 22, 1996, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(a) of the Securities Exchange Act of 1934 ("Act"),¹ a request for extension of its temporary registration as a clearing agency under Section 17A of the Act for a period of one year.² Notice of PTC's request for extension of temporary registration appeared in the Federal Register on March 13, 1996.³ This order approves PTC's request for extension of its temporary registration as a clearing agency through March 31, 1997.

On March 28, 1989, the Commission granted PTC's application for registration as a clearing agency pursuant to Sections 17A(b)(2) and 19(a) of the Act⁴ on a temporary basis for a period of one year.⁵ Subsequently, the Commission issued orders that extended PTC's temporary registration as a clearing agency.⁶ PTC's current

temporary registration extends through March 31, 1996.

As discussed in detail in the initial order granting PTC's temporary registration,⁷ one of the primary reasons for PTC's registration was to develop depository facilities for mortgage-backed securities, particularly securities guaranteed by the Government National Mortgage Association ("GNMA"). PTC services include certificate safekeeping, book-entry deliveries, and other services related to the immobilization of securities certificates.

PTC continues to make significant progress in the areas of financial performance, regulatory commitments, and operational capabilities. For example, the original face value of securities on deposit at PTC as of December 31, 1995, totalled \$1.1 trillion, which was an increase of approximately \$1.26 billion over the amount on deposit as of December 31, 1994. Total pools on deposit, which were held at PTC in a total of 1.1 million participant positions, rose from 279,000 as of December 31, 1994, to more than 302,000 as of December 31, 1995.⁸ In addition, PTC declared a dividend of \$.98 per share to stockholders of record as of the close of business on December 21, 1995.⁹ Four new participants and four new shareholders also were added in 1995 bringing the total participation in PTC to twenty-nine banks, twenty-three broker/dealers, and two government-sponsored enterprises.

In support of the securities industry's effort to move security payments to same-day funds, PTC also saw continued improvement in its GNMA I principal and interest ("P&I") collection and disbursement efforts. For example, PTC modified its program for the intraday distribution of GNMA I P&I by increasing the maximum amount of collected and available GNMA I P&I that may be distributed intraday from fifty percent to sixty-five percent.¹⁰ An overall reduction in mortgage prepayment trends throughout 1995 had a noticeable impact on the volume of P&I disbursed, which was \$86 billion in 1995 compared to \$116 billion in 1994.

PTC also continued its efforts over the past year to implement the operational and procedural changes that PTC committed to make in an agreement with the Commission and with the Federal Reserve Bank of New York in

connection with PTC's original temporary registration.¹¹ For example, PTC implemented improvements to its SPEED securities processing system on January 8, 1996.¹² These improvements cause transaction credits and debits to be posted simultaneously on the deliver and receive sides of a transaction. PTC believes that this change to its processing system satisfies Commitment No. 3 of PTC's nine commitments. Of PTC's nine commitments, only Commitment No. 6 remains to be fulfilled by PTC.¹³

The Commission believes that PTC has functioned effectively as a registered clearing agency for the past seven years and has demonstrated that it has the operational and procedural capacities to comply with the statutory obligations set forth under Section 17A(b)(3) of the Act,¹⁴ which sets forth the prerequisites for registration as a clearing agency. Therefore, the Commission is extending PTC's temporary registration as a clearing agency through March 31, 1997. Comments received during PTC's temporary registration will be considered in determining whether PTC should receive permanent registration as a clearing agency under Section 17A(b) of the Act.¹⁵

It is therefore ordered, that PTC's registration as a clearing agency be and hereby is approved on a temporary basis through March 31, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁶

¹¹ The nine operational and procedural changes PTC committed to make included:

- (1) eliminating trade reversals from PTC's procedures to cover a participant default;
- (2) phasing out the aggregate excess net debit limitation for extensions under the net debit monitoring level procedures;
- (3) allowing participants to retrieve securities in the abeyance account and not allowing participants to reverse transfers because customers may not be able to fulfill financial obligations to the participants;
- (4) eliminating the deliverer's security interest and replacing it with a substitute;
- (5) reexamining PTC's account structure rules to make them consistent with PTC's lien procedures;
- (6) making principal and interest advances, now mandatory, optional;
- (7) expanding and diversifying PTC's lines of credit;
- (8) assuring operational integrity by developing and constructing a back-up facility; and
- (9) reviewing PTC rules and procedures for consistency with current operations.

¹² Securities Exchange Act Release No. 36711 (January 11, 1996), 61 FR 1809.

¹³ *Supra* note 11.

¹⁴ 15 U.S.C. § 78q-1(b)(3) (1988).

¹⁵ 15 U.S.C. § 78q-1(b) (1988).

¹⁶ 17 CFR 200.30-3(a)(50) (1995).

¹ 15 U.S.C. § 78s(a) (1988).

² Letter from John J. Sceppa, President and Chief Executive Officer, PTC, to Jerry Carpenter, Assistant Director, Division of Market Regulation, Commission (February 21, 1996).

³ Securities Exchange Act Release No. 36938 (March 7, 1996), 61 FR 10409.

⁴ 15 U.S.C. §§ 78q-1(b)(2) and 78s(a) (1988).

⁵ Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13266.

⁶ Securities Exchange Act Release Nos. 27858 (March 28, 1990), 55 FR 12614; 29024 (March 28, 1991), 56 FR 13848; 30537 (April 9, 1992), 57 FR 12351; 32040 (March 23, 1993), 58 FR 16902; 33734 (March 8, 1994), 59 FR 11815; and 35482 (March 13, 1995), 60 FR 14806.

⁷ *Supra* note 5.

⁸ *Supra* note 2.

⁹ Securities Exchange Act Release No. 36790 (January 30, 1996), 61 FR 4507.

¹⁰ Securities Exchange Act Release No. 35574 (April 16, 1995), 60 FR 18866.

Jonathan G. Katz,

Secretary.

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[Release No. 34-37013; File No. SR-Amex-95-54]

Self-Regulatory Organizations; the American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Restrictions on Specialists

March 22, 1996.

I. Introduction

On December 19, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Exchange Rules 190 and 950 regarding restrictions on specialists.

The proposed rule change was published for comment in Securities Exchange Act Release No. 36726 (Jan. 17, 1996), 64 FR 1953 (Jan. 24, 1996). No comments were received on the proposal.

II. Background

The Amex adopted most of its restrictions on the activities of specialists in the early 1960s. The effect of these restrictions was to limit the business activities of specialists (and their affiliates) to acting as a "broker's broker" and as a dealer on the Exchange Floor. These restrictions also precluded specialists from making public statements regarding their specialty securities. In 1973, the Exchange added a commentary on the public statement restriction, prohibiting specialists from making, "an advertisement identifying a firm as a specialist in any security."³ Even though the New York Stock Exchange ("NYSE") and Amex generally have comparable rules with respect to restrictions on specialists, the NYSE never adopted the 1973 commentary.

In 1975, with the implementation of trading in standardized options, the Exchange generally extended the restriction on stock specialists to options specialists. It modified, however, the prohibition on business transactions between specialists and the issuer of a specialty security (Rule 190(a)), to prohibit material business transactions between an options

specialist and the issuer of the security underlying a specialty option (Rule 950(k)).⁴

In 1987, the Chicago Board Options Exchange ("CBOE") instituted its Designated Primary Market-Maker ("DPM") system for trading listed options.⁵ While the CBOE adopted a number of the restrictions applicable to Amex options specialists, it did not apply any of the restrictions applicable to Amex specialist communications to its DPMs.⁶

The discrepancy between the rules of the Amex and the CBOE regarding specialist communications had little practical significance prior to the general implementation of multiple options trading. The Exchange is now finding, however, that the disparate regulation of specialists and DPMs has placed it at a disadvantage in the competition for order flow in a multiple trading environment.

III. Description of Proposal

The Amex, accordingly, proposes to amend its rules to lift the prohibition against "popularizing" an option or a derivative security. It will leave in place the restriction against popularizing the underlying security, subject to the exceptions that have long been contained in Amex Rule 950. This will better conform the Amex rules to those applicable to DPMs at the CBOE regarding communications concerning specialty securities.

In addition, the Exchange is also proposing two other changes to the restrictions on popularizing by specialists. The Exchange seeks to conform its rules to those of the NYSE to eliminate generally the prohibition on communications that simply identify a firm as the specialist in a particular security. Finally, the Exchange seeks to amend its rules regarding equity

⁴ Since the Options Clearing Corporation ("OCC") is the issuer of all listed options and the "business transaction" prohibition was intended as a prophylactic measure to prevent the passage of non-public information between specialist and issuer, the policy reason behind Rule 190(a) would not have been advanced had the Exchange simply prohibited business transactions between the OCC and an options specialist.

⁵ Like a specialist, a DPM has primary market making responsibilities.

⁶ See CBOE Rules 8.80 and 8.81, and Securities Exchange Act Release Nos. 24934 (September 22, 1987), 52 FR 36122 (September 25, 1987) and 25151 (November 23, 1987), 52 FR 45417 (November 27, 1987). The CBOE's rules provide that an integrated broker-dealer affiliated with a DPM must establish an exchange approved "Chinese Wall" between the upstairs firm and the DPM and make certain disclosures if it intends to issue recommendations or research reports regarding DPM securities and the underlying. There are no specific restrictions, however, on DPM communications regarding their specialty securities.

derivative⁷ specialists to harmonize them with restrictions on options specialists. Thus, the Exchange would amend its rules to prohibit material business transactions between certain equity derivative specialists and the issuer of the security underlying the equity derivative.⁸

All options specialists would remain subject to the rules regulating the conduct and public communications of members generally (e.g. Exchange Rule 991, the "options advertising" rule). In addition, all other restrictions applicable to specialists and their affiliates would remain in place. Thus, specialists and their affiliates still would be prohibited from trading a specialist security outside the specialist function (Rules 170(e) and 950(n)), holding or granting an option on a specialty stock (Rule 175), engaging in a material business transaction with either the issuer of a specialty security or the underlying security in the case of options (Rules 190(a) and 950(k)), and accepting orders from the issuer of a specialty security, its insiders and enumerated institutional investors (Rules 190(b) and 950(k)).⁹

The Exchange represents that the respective proposed rule changes either seek to conform the Exchange's rules to those of the CBOE and NYSE, or represent a rational harmonization of the regulation of listed options and equity derivatives. In addition, the Exchange believes that changes in market structure, the rule of the specialist in the secondary market, and enhanced surveillance capabilities over the last thirty years have eliminated the need for continuation of at least certain of the original specialist prohibitions. This is most clearly true with respect to the wholesale application of the restrictions on stock specialists to options specialists, due to the derivative pricing of the specialty securities. This is most clearly demonstrated by the experience of the CBOE, which has been able to adequately regulate its DPMs without the use of such wholesale restrictions. Finally, the Exchange

⁷ The term "equity derivative" refers to an underwritten security the value of which is determined by reference to another security, or to a currency, commodity, interest rate or index of the foregoing. Such securities are commonly listed pursuant to Amex Company Guide ("Guide") Sections 106 ("Index and Currency Warrants"), 107 ("Other Securities"), 118 ("Investment Trusts"), or Amex Rule 1002 ("Portfolio Depository Receipts").

⁸ It is in the case of listings under Sections 107 and 118A of the Guide that the underlying can be a single security, so that restrictions analogous to those applicable to equity options are appropriate.

⁹ Exchange Rule 193 permits the affiliates of specialists to obtain an exemption from most specialist restrictions through the use of an Exchange-approved "Chinese wall".

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Commentary to Amex Rule 190.