

than 6,000 funds which Nasdaq distributes daily to newspapers and to vendors through its Level 1 Service.

Eligible funds that do not qualify for the News Media List have been eligible for price dissemination solely through the Level 1 Service. The criteria for inclusion in this list of smaller funds has been a size test based on the number of fund shareholders at the time of initial application for inclusion in the Supplemental List. According to the Investment Company Institute ("ICI"), approximately 2,100 funds do not qualify for either the News Media or Supplemental Lists.

Because these funds do not qualify for the Nasdaq Stock Market, Inc. ("Nasdaq") Service, these smaller funds do not have a centralized means of disseminating their prices to broker-dealers, rating services and individual investors. Instead, these funds distribute their prices to various entities by fax or telephone.

Because of the inefficiencies, costs and lack of transparency associated with the fax or telephone means of communication, the Nasdaq examined whether the Supplemental List criteria for its Service could be refined to permit more funds to provide Nasdaq with price information through its Level 1 Service which is distributed over more than 280,000 terminals. In the course of discussions with ICI, it became apparent that while many smaller funds may have smaller numbers of beneficial owners that keep such funds from meeting the 300 shareholder test, the same funds often have substantial net assets. Accordingly, Nasdaq determined to revise the Supplemental List criteria to delete the shareholder requirement and replace it with two, alternative standards. First, a mutual fund may meet the Supplemental List inclusion standard if the fund has net assets at the time of application of \$10 million or more. In the alternative, a fund would qualify regardless of net assets or shareholder members if it has operated for two full years. Under this new criteria, Nasdaq believes that approximately 1,400 additional funds would qualify for the Supplemental List.

The NASD believes that distribution of Net Asset Value information for smaller funds significantly aids investors in such funds. The Service promotes efficient dissemination of critical information to a wide audience and thereby promotes the transparency of smaller fund prices. By providing a more efficient means of communicating this information, the service may help the affected funds in containing the costs associated with distributing this

information by less efficient means. Accordingly, the NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) in that it promotes better processing of pricing information in securities, protects investors and the public interest, and is designed to produce fair and informative prices for smaller mutual funds.

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

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

#### 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 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 NASD. All submissions should refer to the file number in the caption above and should be submitted by December 4, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-37923; File No. SR-PSE-96-39]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Incorporated Relating to Amending the Minor Rule Plan and the Recommended Fine Schedule**

November 6, 1996.

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 10, 1996, the Pacific Stock Exchange Incorporated ("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 Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (e)(6) of Rule 19b-4 under the Act which renders the proposal effective upon receipt of this filing by the Commission.<sup>1</sup> 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 Exchange is proposing to amend its Minor Rule Plan ("MRP") to add certain rules for which violations may be adjudicated pursuant to Rule 10.13, and to amend its Recommended Fine Schedule to establish recommended fines for violations of those rules and to increase the recommended fines for certain rules violations already subject to the MRP.

<sup>1</sup> The PSE has represented that this proposed rule change: (i) will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition, and (iii) will not become operative for 30 days after the date of this filing. The PSE also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b-4(e)(6) under the Act.

## 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

The Exchange is proposing to amend its MRP,<sup>2</sup> which provides that the Exchange may impose a fine not to exceed \$5,000 on any member, member organization, or person associated with a member organization, for any violation of an Exchange rule that has been deemed to be minor in nature and approved by the Commission for inclusion in the MRP. PSE Rule 10.13, subsections (h)–(j), sets forth the specific Exchange rules deemed to be minor in nature.

#### Options Floor Rule Violations

The Exchange is proposing to add the following Options Floor Decorum and Minor Trading Rule Violations to the MRP: (1) Failure to obtain Exchange

<sup>2</sup> Rule 19d-1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for the summary discipline and abbreviated reporting of minor rule violations by exchange members and member organizations. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) (order approving amendments to paragraph (c)(2) of Rule 19d-1 under the Act). The PSE's MRP was approved by the Commission in 1985. See Securities Exchange Act Release No. 22654 (November 21, 1985), 50 FR 48853 (November 27, 1985) (order approving File No. SR-PSE-85-24). In 1993, the Exchange amended its MRP and adopted detailed procedures relating to the adjudication of minor rule violations. See Securities Exchange Act Release No. 32510 (June 24, 1993), 58 FR 35491 (July 1, 1993). Thereafter, the Exchange has modified its MRP several times. See Securities Exchange Act Release Nos. 34322 (July 6, 1994), 59 FR 35958 (July 14, 1994); 35144 (December 23, 1994), 59 FR 67743 (December 30, 1994); and 36622 (December 21, 1995), 60 FR 67384 (December 29, 1995). The Exchange currently has pending before the Commission a proposal to provide PSE staff with the authority to make findings of rule violations and to impose fines for violations of rules contained in the Exchange's MRP. See Securities Exchange Act Release No. 37592 (August 21, 1996), 61 FR 45468 (August 29, 1996) (File No. SR-PSE-96-26). See also Securities Exchange Act Release No. 37799 (October 9, 1996) (File No. SR-PSE-96-30).

approval for Member or Member Firm electronic devices or systems used for trading purposes on the Exchange Floor (with recommended fines of \$250, \$500 and \$1,500 for first, second and third violations);<sup>3</sup> (2) Failure to answer a Trading Crowd/LMM Questionnaire as required (Option Floor Procedure Advices ("OFPA") B-13(c)) (with recommended fines of \$250, \$500 and \$750 for first, second and third violations); (3) Violations of rules on visitors to the Options Floor (Rule 6.2(a) and OFPA F-2) (with recommended fines of \$250, \$500 and \$1,000 for first, second and third violations); and (4) Misuse of Member badge or Member Firm identification (OFPA F-1) (with recommended fines of \$250, \$500 and \$1,000 for first, second and third violations).

The Exchange is also proposing to increase the recommended fines for the following rule violations, which are already included in the MRP: (1) increases for second and third violations of Rule 6.35, Commentary .03 (Failure to meet 75% Primary Appointment Zone Requirement) from \$750 and \$1,250 to \$1,000 and \$2,500; and (2) increases for second and third violations of Rule 6.37, Commentary .07 (Failure to meet 60% In-Person Trading Requirement) from \$750 and \$1,250 to \$1,000 and \$2,500.

#### Equity Floor Rule Violations

The Exchange is proposing to add the following Equity Floor Decorum and Minor Trading Rule Violation to the MRP: Failure to Clear the Post Properly (Rules 5.16 and Equity Floor Procedure Advice ("EFPA") 1-B) (with an Official Warning and fines of \$250 and \$500 for first, second and third violations).

The Exchange is also proposing to increase the recommended fines for the following rule violations, which are already included in the MRP: (1) increases for first and second violations of the rule on Equity Floor Decorum (EFPA 1-A) from \$25 and \$100 to \$100 and \$250; (2) increases for second and third violations of the rule on Conduct

<sup>3</sup> Cf. Amex Rule 590(h)(14). The PSE has informed the Commission that misuse of electronic devices by Exchange members, which was previously covered by Rule 10.13(h)(12), will be covered by the new rule violation added to the MRP under Rule 10.13(h)(13), "Failure to obtain Exchange approval for Member or Member Firm electronic devices or systems used for trading purposes on the Exchange floor." The new Rule cover misuses of devices because, pursuant to the Rule, the Exchange grants approval for classes of uses of such devices or systems for member use and provides members with notice of the approved uses of such devices or systems, rendering any other uses not approved as unauthorized ones. Telephone conversation between Michael Pierson, Senior Attorney, PSE, and Heather Seidel, Attorney, SEC, dated October 28, 1996.

of Members on the Equity Floor (EFPA 1-B and Rules 5.1(g) and 5.1(h)) from \$100 and \$250 to \$250 and \$500; (3) increases for second and third violations of the rule on Conduct of Guests (EFPA 1-B) from \$50 and \$100 to \$250 and \$500; (4) increases for second and third violations of the rule on Proper Reporting of Transactions Executed at the Exchange (EFPA 2-C and Rules 5.12 and 5.13) from \$25 and \$50 to \$250 and \$500; and (5) increases for first, second and third violations of the rule on Staffing at the Specialist Post (prior to the opening) (Rule 5.28 (c)–(d)) from \$25, \$50 and \$100 to \$100, \$250 and \$500.

#### Other Minor Rule Violations

The Exchange is proposing to increase the recommended fines for violations of the following rules, which are already included in the MRP: (1) increases for first, second and third violations of the rule on submitting trade data to the Exchange in a timely manner (Rule 10.2(c)) from \$100, \$200 and \$500 to \$250, \$500 and \$750; (2) increases for first, second and third violations of the rule on furnishing in a timely manner books, records or other requested information or testimony in connection with an examination of financial responsibility and/or operational conditions (Rule 2.12(c)) from \$100, \$250 and \$500 to \$250, \$500 and \$750; (3) increases for first, second and third violations of the rule on notifying the Exchange of a change of address where notices may be served (Rule 1.13) from \$100, \$250 and \$500 to \$250, \$500 and \$750; (4) increases for first, second and third violations of the rule on filing financial reports or financial information in the type, form, manner and time prescribed by the Exchange (Rule 2.12(a)) from \$100, \$250 and \$500 to \$250, \$500 and \$750; and (5) increases for first, second and third violations of the rule on delaying, impeding or failing to cooperate in an Exchange investigation (Rule 10.2(b)) from \$100, \$250 and \$500 to \$500, \$1,000 and \$2,000.

#### Other Related Rule Changes

The Exchange is proposing to add violations of EFPA 1-C(i) (Admission of Members to the Equity Floor) to those rules for which a summary sanction may be imposed pursuant to Rule 10.14(a).<sup>4</sup>

<sup>4</sup> The Exchange may summarily sanction a member, member organization or person associated with a member organization, in lieu of commencing a "disciplinary action" (as that term is used in Rule 10.3), provided that the procedures set forth in Rule 10.14(a) are followed.

The Exchange is also proposing to amend EFPAs 1-A, 1-B, 2-C and 3-A to conform with the proposed changes in recommended fine levels, and to eliminate references in the EFPAs to "4th," "5th," and "Subsequent" offenses.

In addition, the Exchange is proposing to remove the provision in EFPA 1-B that prohibits consumption of food and drink on the Los Angeles Trading Floor, and to remove the related provision from the MRP.

Finally, the Exchange is proposing to add its Recommended Fine Schedule to the text of the MRP. Accordingly, the Exchange is proposing to remove a provision from Rule 10.13(f) that requires the Exchange to maintain this Schedule and to circulate it to the Exchange's Membership periodically.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and Sections 6(b)(5) and 6(b)(7) of the Act, in particular, in that it is designed to promote just and equitable principles of trade and to assure that members, member organizations, and persons associated with members and member organizations are appropriately disciplined for violations of Exchange rules.

*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.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

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

This proposed rule change has been filed by the Exchange as a "noncontroversial" rule change pursuant to paragraph (e)(6) of Rule 19b-4.<sup>6</sup> Consequently, the rule change shall become operative 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and

subparagraph (e)(6) of Rule 19b-4 thereunder.

One of the changes that the PSE has proposed it to amend EFPAs 1-A, 1-B, 2-C, and 3-A to eliminate references to "4th", "5th," and "subsequent" offenses. The Commission believes that this amendment does not subsequently change the Exchange's flexibility with regard to discipline for 4th, 5th and subsequent violations of the MRP; the Exchange may still impose a fine or bring a formal disciplinary action for violation of a rule included in the MRP.

The Commission notes that the PSE still has general authority, subject to the requirements in Rule 10.13, to impose a fine, not to exceed \$5000, on any member, member organization, or person associated with a member or member organization, for violation of an Exchange rule that is included in the MRP.<sup>8</sup> In addition, Exchange Rule 10.3 provides the PSE with the authority to bring formal disciplinary action for a violation of a rule included in the MRP.<sup>9</sup>

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, 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 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 Room. Copies of such filings will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-96-39 and should be submitted by December 4, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

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**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster Loan Area #2907]**

**Florida (and Contiguous Counties in Georgia); Declaration of Disaster Loan Area**

As a result of the President's major disaster declaration on October 15, 1996, I find that the Counties of Baker, Citrus, Clay, Dixie, Duval, Hernando, Hillsborough, Levy, Manatee, Nassau, Pasco, Pinellas, Putnam, Sarasota, Taylor and Volusia in the State of Florida constitute a disaster area due to damages caused by storm surge, heavy rains, flooding and wind damage associated with Tropical Storm Josephine which occurred October 7, 1996 and continuing. Applications for loans for physical damages may be filed until the close of business on December 14, 1996, and for loans for economic injury until the close of business on July 15, 1997 at the address listed below:

U.S. Small Business Administration,  
Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Alachua, Bradford, Brevard, Charlotte, Columbia, De Soto, Flagler, Gilcrest, Hardee, Jefferson, Lafayette, Lake, Madison, Marion, Polk, Seminole, St. Johns, Sumter, and Union Counties in Florida, and Camden, Charlton, Clinch, and Ware Counties in Georgia.

Interest rates are:

For Physical Damage:	Percent
Homeowners With Credit Available Elsewhere .....	8.000
Homeowners Without Credit Available Elsewhere .....	4.000
Businesses With Credit Available Elsewhere .....	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere .....	7.125

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 17 CFR 240.19b-4(e)(6).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> Exchange Rule 10.13(a).

<sup>9</sup> See Exchange Rule 10.3.

<sup>10</sup> 17 CFR 200.30-3(a)(12).