

2. Basis

The proposed rule change is consistent with Section 6(b)⁴ of the Act in general and furthers the objectives of Section 6(b)(5)⁵ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change became effective upon filing pursuant to Section 19(b)(3)(A)⁶ and Rule 19b-4(e)(1)⁷ of the Act. The proposed rule change has been properly designated by the self-regulatory organization as constituting a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of existing Amex Rule 901C.

Pursuant to Section 19(b)(3)(A) of the Act, at any time within 60 days of the filing of the 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 the 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, 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, 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 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 Amex. All submissions should refer to file number SR-Amex-99-05 and should be submitted by March 9, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41021; File No. SR-NYSE-98-44]

Self-Regulatory Organizations; New York Stock Exchange, Incorporated; Order Approving Proposed Rule Change Regarding an Interpretation With Respect to Rule 344 ("Supervisory Analysts")

February 4, 1999.

I. Introduction

On December 3, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with 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 amending an interpretation regarding the meaning and administration of NYSE Rule 344 ("Supervisory Analysts"). Notice of the proposal appeared in the **Federal Register** on December 30, 1998.³ The Commission received no comments on the proposal.

⁸ 17 CFR 200.30-3(a)(12).

¹ 17 CFR 240.19b-4.

² 15 U.S.C. 78s(b)(1).

³ Securities Exchange Act Release No. 40812 (December 21, 1998), 63 FR 71991 (December 30, 1998).

This order approves the proposed rule change.

II. Description of Proposal

The Exchange proposed to amend an interpretation concerning the meaning and administration of NYSE Rule 344. NYSE Rule 344 establishes standards for qualification of candidates for Supervisory Analyst designation at member organizations. The Exchange intends to publish the interpretation as an Interpretation Memorandum for inclusion in the Exchange's Interpretation Handbook.

Research reports issued by a member organization must, under the provisions of NYSE Rule 472(b) ("Communications with the Public"), be prepared or approved by a Supervisory Analyst. NYSE Rule 344 requires that, to be approved by the Exchange, Supervisory Analysts must provide evidence of "appropriate experience" and pass the Supervisory Analyst Examination (the "Series 16 Examination") or complete the Chartered Financial Analysts Level I Examination and pass Part I of the Series 16 Examination. The examination consists of two parts: Part I, Regulatory Administration, and Part II, Review of Security Analysis. Currently, the interpretation of NYSE Rule 344 requires Supervisory Analyst candidates to have "at least three years prior experience as a securities analyst." The interpretation, as amended, requires Supervisory Analyst candidates to have "at least three years experience, within the most recent six years, involving securities or financial analysis." The Exchange will continue to require candidates for the Supervisory Analyst designation to pass the Series 16 Examination.

The Exchange also proposed to include in the interpretation the following as examples of appropriate experience: (1) Equity or fixed income research analyst; (2) credit analyst for a securities rating agency; (3) supervising preparation of materials prepared by financial/securities analysts; (4) financial analytical experience gained at banks, insurance companies or other financial institutions; and (5) academic experience relating to the financial/securities markets/industry.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular,

⁴ In approving this rule, the Commission has considered the proposed rule's impact on

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(e)(1).

the requirements of Section 6 and the rules and regulations thereunder.⁵ The Commission believes that the proposal is consistent with the provisions of Section 6(c)(3)(B) of the Act⁶ providing that an exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange and that an exchange may bar a natural person from becoming a member or person associated with a member, if such person does not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange.

The Commission believes the Exchange has developed standards to help ensure that persons associated with Exchange members and member organizations as Supervisory Analysts are appropriately qualified and experienced to approve communications with the public. The Exchange represents that requiring three years experience as a "securities analyst" is too restrictive in light of the current business environment. Because the role of Supervisory analyst has changed to consist primarily of reviewing research reports prepared by others, as opposed to, the preparation of research reports, "appropriate experience" need not be limited to exclusively experience as a "securities analyst." The Commission believes that expanding the definition of industry experience as set forth in the proposal is consistent with the requirements of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-NYSE-98-44) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-3667 Filed 2-12-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41018; File No. SR-PCX-98-30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Exchange, Inc. Relating to Telephone Use on the Options Floor

February 3, 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 June 26, 1998, the Pacific Exchange, Inc. ("PCX" 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. On November 12, 1998, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 to 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 adopt a new rule setting forth procedures and restrictions regarding telephone use on the Options Trading Floor ("Options Floor"). The text of the proposed rule change is available at the Office of the Secretary, the PCX, 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. 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

The purpose of this proposal is to establish rules and procedures for telephone use on the Options Floor. Proposed Rule 6.2(h) sets guidelines for the use of telephones by Market Makers, Lead Market Makers ("LMMs"), Floor Brokers, Clerks, and Floor Managers.

The PCX is proposing to establish a formal rule requiring that Members and Member Firms must register, prior to use, any new telephone to be used on the Options Floor. Proposed Rule 6.2(h) states that each phone registered with the Exchange must be registered by category of user (Market Maker, LMM, Floor Broker, Clerk or Manager). If there is a change in the category of any user, the phone must be re-registered with the Exchange. At the time of registration, Members and Member Firm representatives must sign a statement indicating that they are aware of and understand the rules governing the use of telephones on the Options Floor.

The Rule further states that no Member or Member Firm may employ any alternative communication device, including but not limited to e-mail, on the Options Floor without the prior approval of the Options Floor Trading Committee.

Capacity and Functionality

The proposed Rule specifies the capacity and functionality permitted for the use of telephones on the Options Floor. The Rule states specifically that no wireless telephone used on the Options Floor may have an output greater than one watt and that no person on the Options Floor may use any device for the purpose of maintaining an open line of continuous communication whereby a person not located in the trading crowd may continuously monitor the activities in the trading crowd. This prohibition covers intercoms, walkie-talkies and any similar devices. The rule does permit speed-dialing features for Member phones.

Members and Member Firm Employees

The proposed Rule states specific guidelines for each category of user on the Options Floor, as follows:

Market Makers and LMMs

The proposed Rule states that Market Makers and LMMs may use their own cellular and cordless phones to place calls to any person at any location (whether on or off the Options Floor).

efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(c)(3)(B).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Robert Pacileo, Staff Attorney, Regulatory Policy, PCX, to David Sieradzki, Attorney, Division of Market Regulation, SEC dated November 10, 1998 ("Amendment No. 1"). The substance of Amendment No. 1 is incorporated into this notice.