

rule.”¹² The second amendment provides that the applicable first PMM review period for IPOs that come to market during the last five business days of a month is the calendar month after the month in which the IPO commenced trading on Nasdaq. Thus, if an IPO comes to market on the last day of a month, the applicable PMM review period would be the next full calendar month, not the single day on which the issue was first listed on Nasdaq. The NASD believes this amendment is appropriate because it avoids situations where NASD members may be potentially subject to the “ten-day penalty rule” based on just a few days of trading activity.

2. Statutory Basis

The NASD believes the proposed rule change is consistent with Section 15A(b)(6) of the Act.¹³ Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Specifically, the NASD believes the proposed rule change will help to ensure the fair and efficient operation and administration of the PMM Rule. The NASD also believes the proposed rule change will help to ensure that NASD members understand the operation of the PMM Rule.

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

The proposed rule change does not 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 Association 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

The foregoing rule change constitutes a stated policy, practice, or

interpretation with respect to the meaning, administration, or enforcement of an existing rule and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and subparagraph (e) of Rule 19b-4 thereunder.¹⁵

At any time within sixty 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 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the National Association of Securities Dealers, Inc. All submissions should refer to File No. SR-NASD-96-25 and should be submitted by August 8, 1996.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-18171 Filed 7-17-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37428; File No. SR-NYSE-94-34]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 3 to Proposed Rule Change by New York Stock Exchange, Inc. Relating to Amendment of Exchange Rule 92

July 11, 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 June 28, 1996, 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 proposed rule change consists of further amendments to Rule 92 which would allow member organizations to trade along with customers when liquidating a block position or engaging in arbitrage, subject to certain conditions, and which would limit the circumstances under which Rule 92 would apply to trades by a member or member organization off the Exchange.

The following is the text of the proposed rule change marked to reflect all of the proposed changes to the current rule.¹ Additions to the current rule are in italics and deletions are in brackets.

Rule 92: Limitations on Members' Trading Because of Customers' Orders

[(a) No member shall (1) personally buy or initiate the purchase of any security on the Exchange for his own account or for any account in which he, his member organization or any other member, allied member or approved person, in such organization or officer thereof, is directly or indirectly interested, while such member personally holds or has knowledge that his member organization holds an unexecuted market order to buy such security in the unit of trading for a customer, or (2) personally sell or

¹ The text of the proposed rule change published below incorporates all of the changes to the original rule proposal made in Amendment Nos. 1, 2, and 3. See Securities Exchange Act Release Nos. 35139 (Dec. 22, 1994), 60 FR 156 (Jan. 3, 1995) (notice of filing of proposed rule change, including Amendment No. 1); 36015 (July 21, 1995), 60 FR 38875 (July 28, 1995) (notice of filing of Amendment No. 2).

¹² The market maker, however, would be subject to the 20 day penalty rule. See NASD Rule 4730.

¹³ 15 U.S.C. 78o-3(b)(6).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4.

¹⁶ 17 CFR 200.30-3(a)(12).

initiate the sale of any security on the Exchange for any such account, while he personally holds or has knowledge that his member organization holds an unexecuted market order to sell such security in the unit of trading for a customer.

(b) No member shall (1) personally buy or initiate the purchase of any security on the Exchange for any such account, at or below the price at which he personally holds or has knowledge that his member organization holds an unexecuted limited price order to buy such security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the Exchange for any such account at or above the price at which he personally holds or has knowledge that his member organization holds an unexecuted limited price order to sell such security in the unit of trading for a customer.]

(a) Except as provided in this Rule, no member or member organization shall cause the entry of an order to buy (sell) any Exchange-listed security on the Exchange or any other market center for any account in which such member or member organization or any approved person thereof is directly or indirectly interested (a "proprietary order"), if the person responsible for the entry of such order has knowledge of any particular unexecuted customer's order to buy (sell) such security which could be executed at the same price.

(b) A member or member organization may enter a proprietary order while representing a customer order which could be executed at the same price, provided the customer's order is not for the account of an individual investor, and the customer has given express permission, including an understanding of the relative price and size of allocated execution reports, under the following conditions:

(1) the member or member organization is liquidating a position held in a proprietary facilitation account, and the customer's order is for 10,000 shares or more; or

(2) the member or member organization is engaging in bona fide arbitrage or risk arbitrage transactions, and recording such transactions in an account used solely to record arbitrage transactions (an "arbitrage account").

(c) The provisions of this Rule shall not apply to:

(1) [to] any purchase or sale of any security in an amount of less than the unit of trading made by an odd-lot dealer to offset odd-lot orders for customers; [or]

(2) [to] any purchase or sale of any security upon terms for delivery other

than those specified in such unexecuted market or limited price order[.];

(3) transactions by a member or member organization acting in the capacity of a market maker pursuant to Securities and Exchange Commission Rule 19c-3 in a security listed on the Exchange; and

(4) transactions by a member or member organization acting in the capacity of a specialist or market maker on another national securities exchange.

Supplementary Material

.10 A member or employee of a member or member organization responsible for entering proprietary orders shall be presumed to have knowledge of a particular customer order unless the member organization has implemented a reasonable system of internal policies and procedures to prevent the misuse of information about customer orders by those responsible for entering such proprietary orders.

.20 This Rule shall also apply to a member organization's member on the Floor, who may not execute a proprietary order at the same price, or at a better price, as an unexecuted customer order that he or she is representing, except to the extent the member organization itself could do so under this Rule.

.30 For purposes of paragraph (b) above, the term "account of an individual investor" shall have the same meaning as the meaning ascribed to that term in Exchange Rule 80A. For purposes of paragraph (b)(1) above, the term "proprietary facilitation account" shall mean an account in which a member organization has a direct interest and which is used to record transactions whereby the member organization acquires positions in the course of facilitating customer orders. Only those positions which are recorded in a proprietary facilitation account may be liquidated as provided in paragraph (b)(1). For purposes of paragraph (b)(2) above, the terms "bona fide arbitrage" and "risk arbitrage" shall have the meaning ascribed to such terms in Securities Exchange Act Release 15533, January 26, 1979. All transactions effected pursuant to paragraph (b)(2) above must be recorded in an arbitrage account.

[.10] .40 A member who issues a commitment or obligation to trade from the Exchange through ITS or any other Application of the System shall, as a consequence thereof, be deemed to be initiating a purchase or sale of a security on the Exchange as referred to in this Rule.

[.20] .50 See paragraph (c)(i) of Rule 800 (Basket Trading: Applicability and

Definitions) and paragraph 99 (Off-Hours Trading: Applicability and Definitions) in respect of the ability to initiate basket transactions and transactions through the "Off-Hours Trading Facility" (as Rule 900 defines that term), respectively, notwithstanding the limitations of this Rule.

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 purpose of the proposed rule change is to make certain technical amendments to the changes originally proposed in SR-NYSE-94-34. The Exchange's original proposal exempted from Rule 92 transactions by a member organization acting in the capacity of a market maker pursuant to Regulation 240.19c-3 of the Securities and Exchange Commission, and transactions by a regional exchange specialist or market maker, to the extent that a riskless principal trade is effected and immediately liquidated at the same price to a customer on that exchange. The Exchange is amending this portion of Rule 92 (paragraph (c)(4) to provide that regional exchange specialists and market makers will be exempt from the provisions of the rule in the same manner as 19c-3 market makers, when they are acting in the capacity of a specialist or market maker on that exchange. The Exchange is making this amendment so as not to interfere with the established market making practices of other market centers.

Rule 92 is an investor protection and market integrity rule, and as member organizations (other than specialists, competitive traders, and registered competitive market makers) make their proprietary trading decisions off the Floor of the Exchange, the scope of Rule 92 would be expanded from a narrow focus on trading Floor activities to now

encompass member organizations' transactions in NYSE-listed securities irrespective of the market center in which those transactions occur. To the extent that another self-regulatory organization ("SRO") has a similar prohibition and the prohibited activity results in transactions effected solely in that other SRO's market and that SRO is a member of the Intermarket Surveillance Group, ("ISG"), the ISG's investigative procedures would apply.

The Exchange believes that amending Rule 92 in this regard is consistent with the Exchange's expectations that its members and member organizations, in the exercise of their fiduciary duty and pursuant to principles of agency law, place the interests of their customers ahead of their own proprietary interests, regardless of where they choose to pursue those proprietary interests.

2. Statutory Basis

The basis under the Act for this proposed 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. The proposed rule change will enable member organizations to add depth and liquidity to the Exchange's market, while continuing to provide customer protection through the requirement of customer approval for trading along situations.

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 that is not necessary or appropriate in furtherance of the purposes of the Act, particularly since the rule would apply equally in all market centers.

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

The Exchange understands that the Commission has received comments on SR-NYSE-94-34 Amendment No. 2 thereto from at least one self-regulatory organization. The Exchange believes that issues raised by this commentator are addressed herein.²

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

Within 35 days of the publication of this notice in the Federal Register or within such other 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 the 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 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-94-34 and should be submitted by August 8, 1996.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-18258 Filed 7-17-96; 8:45 am]

BILLING CODE 8010-01-M

COMMISSION ON UNITED STATES-PACIFIC TRADE AND INVESTMENT POLICY

Office of the United States Trade Representative

Notice of Meeting of the Commission on United States Pacific Trade and Investment Policy

AGENCIES: Commission on United States-Pacific Trade and Investment Policy and Office of the United States Trade Representative.

ACTION: Notice that the next meeting of the Commission on United States-Pacific Trade and Investment Policy, originally scheduled for July 18, will now be held on July 17, 1996, from 9:30 a.m. to 5:30 p.m. The meeting will be closed to the public from 9:30 a.m. to 10:45 a.m. and from 3:00 p.m. to 5:30 p.m. The meeting will be open to the public from 10:45 a.m. to 3:00 p.m.

SUMMARY: The Commission on United States-Pacific Trade and Investment Policy will hold a meeting on July 17, 1996, from 9:30 a.m. to 5:30 p.m. The meeting will be closed to the public from 9:30 a.m. to 10:45 a.m. and from 3:00 p.m. to 5:30 p.m. The meeting will include a review and discussion of current issues affecting U.S. trade policy with Asia. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, the USTR has determined that this portion of the meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 10:45 a.m. to 3:00 p.m. At this time the Commission will continue the study phase of its work and consider: (1) Challenges and opportunities in the Asia-Pacific region for the U.S. automotive industries; (2) workers rights issues; and (3) opportunities and challenges for U.S. investment in the Asia-Pacific region. Public attendance during the meeting is for observation only. Individuals who are not members of the Commission will not be invited to comment.

DATES: The meeting is scheduled for July 17, 1996, unless otherwise notified.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce 14th & Constitution Avenue, NW.,

² All the comment letters received by the Commission regarding the NYSE's proposal are available in the Commission's public reference room in File No. SR-NYSE-94-34.