

Rule, any market maker exemptions, and the proposed new PMM standards. The Commission recognizes that the current Short Sale Rule already has generated significant public comment. Such commentary, along with any further comment on the interaction of the Short Sale Rule with the proposed new PMM standards, will help guide the Commission's evaluation of the Short Sale Rule and new PMM standards. Moreover, during this period, the Commission anticipates that the NASD will continue to address the Commission's questions and concerns and provide the Commission staff with additional information about the practical effects and the operation of the revised PMM standards and possible interaction between those standards and the NASD's Short Sale Rule.

The Commission finds good cause for approving the extension of the Short Sale Pilot and the extension of the suspension of existing PMM standards prior to the 30th day after the date of publication of notice of filing thereof. The Short Sale Rule has been in place since September 6, 1994, and the Commission is only extending it for six and a half months in order to evaluate its interaction with new PMM standards. In addition, as noted above, it could be disruptive to market making to reintroduce outdated PMM standards for a brief period prior to implementation of a new PMM pilot.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>33</sup> that the portion of the proposed rule change (File No. SR-NASD-98-26) containing the extension of the NASD's Short Sale Rule pilot until November 1, 1998, and the suspension of existing PMM standards until May 1, 1998, is hereby approved on an accelerated basis.<sup>34</sup>

For the Commission, by the division of Market Regulation, pursuant to delegated authority.<sup>35</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39813; File No. SR-NYSE-98-08]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule and Amendment No. 1 to the Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Margin Requirements for Exempted Borrowers and Good Faith Accounts

March 27, 1998.

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 March 11, 1998, 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 NYSE.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. As discussed below, the Commission also is granting accelerated approval of the proposal for 120 days, until July 27, 1998.

#### I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 431, "Margin Requirements," to apply the maintenance margin requirements of NYSE Rule 431 to good faith accounts and to provide that the proprietary accounts of introducing broker-dealers who are exempted borrowers under Regulation T<sup>4</sup> will continue to be subject to NYSE Rule 431(e)(6). The NYSE has requested accelerated approval of the proposal for 120 days.<sup>5</sup>

Proposed NYSE Rule 431, as amended, is attached as Exhibit A.

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

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

<sup>3</sup> On March 23, 1998, the NYSE amended its proposal. See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard C. Strasser, Division of Market Regulation, Commission, dated March 20, 1998 ("Amendment No. 1"). In Amendment No. 1, the NYSE modified its proposal to request temporary approval of the proposal for 120 days.

<sup>4</sup> 12 CFR 220. Regulation T, "Credit by Brokers and Dealers," is administered by the Board of Governors of the Federal Reserve System ("FRB") pursuant to Section 7 of the Act.

<sup>5</sup> See Amendment No. 1, *supra* note 3.

#### 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 NYSE 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 V below. The NYSE 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

In December 1997, the FRB adopted amendments to Regulation T, which governs initial extensions of credit to customers and broker-dealers. One significant Regulation T change established a "good faith" account which can be used for transactions in non-equity securities.<sup>6</sup> Unlike transactions in a cash or margin account, transactions in the good faith account are *not* subject to the requirements of Regulation T with respect to initial margin and payment and liquidation time frames.

The NYSE believes that transactions in a good faith account raise the same safety and soundness concerns from a maintenance margin perspective as cash and margin account transactions. Accordingly, the NYSE proposes to amend NYSE Rule 431 so that transactions in all accounts of customers (except for cash accounts, as discussed below), including the new good faith account, will be subject to the current applicable maintenance margin requirements of NYSE Rule 431(c).<sup>7</sup> As is currently the case, cash accounts subject to Regulation T will not be subject to the overall NYSE Rule 431 requirements, but in certain cases will be covered by specific rule provisions. In this regard, the NYSE notes that NYSE Rule 431 requirements currently apply to cash account transactions in exempted securities (NYSE Rule 341(e)(2)(F); for certain options (NYSE Rule 431(f)(2)(M)); and for "when issued" and "when distributed" securities (NYSE rule 341(f)(3)(B)).

<sup>6</sup> 12 CFR 220.6.

<sup>7</sup> NYSE Rule 431(c), as amended, will specify the margin that must be maintained in all customer accounts, except for cash accounts subject to Regulation T, unless a transaction in a cash account is subject to other provisions of NYSE Rule 431.

<sup>33</sup> 15 U.S.C. 78s(b)(2).

<sup>34</sup> In approving this portion of the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>35</sup> 17 CFR 200.30-3(a)(12).

The FRB also established a classification of exempted borrowers which are exempt from Regulation T. An "exempted borrower," as defined in Regulation T, is a broker-dealer "a substantial portion of whose business consists of transactions with persons other than brokers or dealers."<sup>8</sup> The NYSE currently does not apply the requirements of NYSE Rule 431 to member organization accounts except for transactions in the proprietary accounts of broker-dealers which are carried by a member organization. Specifically, NYSE Rule 431(e)(6) states that a member organization may carry the proprietary account of another broker-dealer upon a margin basis which is satisfactory to both parties provided the requirements of Regulation T are adhered to and the account is not carried in a deficit equity condition.

The NYSE believes that exempted borrowers should remain exempt from the requirements of NYSE Rule 431. However, under the new Regulation T definition of exempted borrower, the proprietary transactions of an introducing organization that qualifies as an exempted borrower (*i.e.*, an organization that conducts a substantial public business) will not be subject to Regulation T. The proposed amendments to NYSE Rule 431(a)(2) will exclude exempted borrowers from the definition of customer. However, for safety and soundness purposes, proprietary accounts that are carried or cleared by a member organization will remain subject to the NYSE Rule 431 equity requirements. Accordingly, NYSE Rule 431(a)(2), as amended, will state that the term "customer" will not include an "exempted borrower" as defined in Regulation T, except for the proprietary account of a broker-dealer carried by a member organization pursuant to NYSE Rule 431(e)(6).

## 2. Statutory Basis

The NYSE believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and to protect the investing public. The NYSE believes that the proposed rule change also is consistent with the rules and regulations of the FRB in that it is designed to prevent the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) of the Act.

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

The NYSE believes that the proposed rule change will 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*

No written comments were solicited or received.

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

The NYSE has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed amendments to NYSE Rule 431 for 120 days<sup>9</sup> prior to the 30th day after publication of the proposed rule change in the **Federal Register**. The NYSE states that accelerated approval of the proposal will ensure that the appropriate requirements under NYSE Rule 431 are in place when the Regulation T amendments become effective on April 1, 1998. According to the NYSE, approval of the proposed amendments to NYSE Rule 431 as of April 1, 1998, is necessary so that transactions in the new good faith account and in the proprietary accounts of non-carrying/clearing member organizations will be subject to NYSE Rule 431 margin requirements.

### **IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change**

After careful review of the NYSE's proposal and for the reasons discussed below, 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 exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Commission finds that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed 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.<sup>11</sup>

<sup>9</sup> See Amendment No. 1, *supra* note 3.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> In approving the rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Specifically, the Commission finds that it is appropriate for the NYSE to apply the existing maintenance margin requirements of NYSE Rule 431(c) to transactions in the new "good faith" account permitted under Regulation T. The NYSE notes that the non-equity transactions permitted in the good faith account will not be subject to the initial margin requirements and payment and liquidation time frames of Regulation T. However, as the NYSE notes, transactions in the good faith account may raise the same safety and soundness concerns with regard to maintenance margin as do transactions in cash and margin accounts. Accordingly, the Commission believes that it is appropriate for the NYSE to apply the existing maintenance margin requirements specified in NYSE Rule 431(c) to transactions in the good faith account. The Commission believes that applying the maintenance margin requirements of NYSE Rule 431(c) to transactions in the good faith account will protect investors and the public interest and help to maintain fair and orderly markets by ensuring that good faith accounts contain adequate margin reserves.

NYSE Rule 431(e)(6) states that a member may carry the proprietary account of another registered broker-dealer upon a margin basis satisfactory to both parties, provided the requirements of Regulation T are adhered to and the account is not carried in a deficit equity condition. The Commission believes that it is appropriate for the NYSE to amend the definition of "customer" in NYSE Rule 431(a)(2) so that NYSE Rule 431(e)(6) will continue to apply to the proprietary accounts of introducing broker-dealers that qualify as "exempted borrowers" under Regulation T. By continuing to apply NYSE Rule 431(e)(6) to these accounts, the Commission believes that the proposal will help to ensure that these accounts contain adequate margin, thereby protecting investors and the public interest.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the **Federal Register** in order to ensure that the proposed changes are effective by April 1, 1998, when the Regulation T amendments concerning good faith accounts and exempted borrowers become effective. The Commission believes that the proposed changes will help to ensure adequate margin requirements for good faith accounts and for introducing broker-dealers that qualify as exempted borrowers. Accordingly, the Commission finds that

<sup>8</sup> 12 CFR 220.2.

it is consistent with Sections 6(b) and 19(b)(2) of the Act to approve the proposal on an accelerated basis.

The Commission also finds good cause for approving Amendment No. 1 to the proposal on an accelerated basis. In Amendment No. 1, the NYSE modified its proposal to provide that the proposal will be effective for 120 days. The Commission believes that it is appropriate to provide for temporary approval of the proposal for 120 days in order to provide for a full notice and comment period when the NYSE requests permanent approval of the changes to NYSE Rule 431. Therefore, the Commission believes that Amendments No. 1 is consistent with Sections 6(b) and 19(b)(2) of the Act and Amendment No. 1 is approved on an accelerated basis.

## V. 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 Room. 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-HYSE-98-08 and should be submitted by April 27, 1998.

## VI. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-NYSE-98-08) is approved for 120 days, until July 27, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Margaret H. McFarland,  
Deputy Secretary.

## Exhibit A

Additions are italicized; deletions are bracketed.

## Proposed Amendments to NYSE Rule 431

Rule 431(a)(1) unchanged.

(a)(2) The term "customer" means any person for whom securities are purchased or sold or to whom securities are purchased or sold whether on a regular way, when issued, delayed or future delivery basis. It will also include any person for whom securities are held or carried and to or for whom a member organization extends, arranges or maintains any credit. The term will not include *the following: (a) a broker or dealer from whom a security has been purchased or to whom a security has been sold for the account of the member organization or its customers[.], or (b) an "exempted borrower" as defined by Regulation T of the Board of Governors of the Federal Reserve Board ("Regulation T"), except for the proprietary account of a broker-dealer carried by a member organization pursuant to Section (e)(6) of this Rule.*

(a)(3) through (b)(4) unchanged.

(c) Maintenance Margin.

The margin which must be maintained in [margin] *all accounts of customers, except for cash account subject to Regulation T unless a transaction in a cash account is subject to other provisions of this rule*, shall be as follows:

(1) 25% of the current market value of all securities "long" in the account; plus

(2) \$2.50 per share or 100% of the current market value, whichever among is greater, of each stock "short" in the account selling at less than \$5.00 per share; plus

(3) \$5.00 per share or 30% of the current market value, whichever amount is greater, or each stock "short" in the account selling at \$5.00 per share or above; plus

(4) 5% of the principal amount or 30% of the current market value, whichever amount is greater, of each bond "short" in the account.

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## DEPARTMENT OF STATE

[Public Notice 2775]

## Bureau of Consular Affairs; Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; Affidavit Regarding Change of Name.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB on or before May 6, 1998.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Reinstatement with change, of a previously approved collection for which approval has expired.

*Originating Office:* Bureau of Consular Affairs.

*Title of Information Collection:* Affidavit Regarding Change of Name.

*Frequency:* On occasion.

*Form Number:* DSP-60.

*Respondents:* Applicants who have a passport that has a name on it that is substantially different from that shown on the citizenship evidence, or which was not acquired by a female applicant's marriage.

*Estimated Number of Respondents:* 75,000.

*Average Hours Per Response:* 15 minutes.

*Total Estimated Burden:* 18,750 hours.

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.

- Evaluate the accuracy of agency's estimate of the burden of the proposed collection.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

**FOR FURTHER INFORMATION CONTACT:** Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647-0596. Interested persons are invited to submit

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).