

Pursuant to Regulatory Circular #95-04, members are currently required to submit certain data pertaining to agency orders and proprietary trades. The Exchange recognizes, however, that the types of data it requires will likely change as CSE's regulatory program evolves. The proposed rule change will therefore impose a general regulatory data submission requirement that will refer members to the current Regulatory Circular delineating order, market, and transaction submission requirements. In this way, the Exchange will retain the flexibility necessary for effective regulatory surveillance and enforcement efforts.

(2) Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁴ in general and furthers the objectives of Section 6(b)(5)⁵ in particular in that it is designed to promote just and equitable principles of trade, 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 CSE does not believe that the proposed rule change will impose any inappropriate 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five days prior to the filing date;⁶ and (4) does not become operative for 30 days from March 14, 1997,⁷ the rule change has become

effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(e)(6)⁹ thereunder. In particular, the Commission believes the proposal qualifies as a "noncontroversial filing" in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change,¹⁰ 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. 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 in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR-CSE-97-05 and should be submitted by April 15, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jonathan G. Katz,

Secretary.

[FR Doc. 97-7392 Filed 3-24-97; 8:45 am]

BILLING CODE 8010-01-M

causes the 30-day delayed implementation period to be restarted from the date of the filing of the amendment. See Securities Exchange Act Release No. 35123 (Dec. 20, 1994), 59 FR 66692 (Dec. 28, 1994).

⁴ 15 U.S.C. § 78f(b).

⁵ 15 U.S.C. § 78f(b)(5).

⁶ The Commission waived the five-day prefiling requirement, because the Commission had the opportunity to review the proposal when it was filed as SR-CSE-97-04, pursuant to Section 19(b)(2) of the Act. The previous proposal was withdrawn on March 6, 1997 and refiled pursuant to Section 19(b)(3)(A) of the Act.

⁷ Although the proposal was originally filed with the Commission on March 6, 1997, the Commission notes that any substantive amendment to a proposed rule change filed under Rule 19b-4(e)(6)

⁸ 15 U.S.C. § 78s(b)(3).

⁹ 17 CFR 240.19b-4(e)(6).

¹⁰ The 60 day abrogation period commences from March 14, 1997, the date of the submission of the substantive amendment.

¹¹ 17 CFR 200.30-3(a)(12).

[Release No. 34-38411; File No. SR-NYSE-97-01]

Self-Regulatory Organization; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Amendments to Rule 431 ("Margin Requirements")

March 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1997 the New York Stock Exchange, Inc. ("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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The Exchange has filed amendments to Rule 431 ("Margin Requirements"). The change consists of amendments regarding permitted market maker and specialist offset positions being eliminated from Regulation T of the Federal Reserve Board ("FRB") and to acknowledge specific provisions of Rule 15c3-1 of the Securities Exchange Act of 1934 ("the Net Capital Rule"). The proposed rule change also incorporates in Rule 431 cash account transactions permitted by the FRB and SEC, as well as incorporating several definitions. Proposed new language is italicized; proposed deletions are in brackets.

Proposed Amendment of Rule 431 Margin Requirements

Rule 431. (a) through (f)(2)(I) unchanged.

(J) *Registered specialists, market makers or traders.*—Notwithstanding the other provisions of this sub-section (f)(2), a member organization may clear and carry the listed option transactions of one or more registered specialists, registered market makers or registered traders in options (which registered traders are deemed specialists for all purposes under the Securities Exchange Act of 1934 pursuant to the rules of a national exchange) (*hereinafter referred to as "specialist(s)"*, upon a "Good Faith" margin basis satisfactory to the concerned parties, provided [that all real and potential risks in accounts carried under such arrangements are at all times adequately covered by the margin maintained in the account or in the absence thereof, by the carrying

member organization's excess Net Capital under Rule 325.] the "Good Faith" margin requirement is not less than the Net Capital haircut deduction of the member organization carrying the transaction pursuant to Rule 325. In lieu of collecting the "Good Faith" margin requirement, a carrying member organization may elect to deduct in computing its Net Capital the amount of any deficiency between the equity maintained in the account and the "Good Faith" margin required.

For purposes of this paragraph (f)(2)(J), a permitted offset position means, in the case of an option in which a specialist makes a market, a position in the underlying asset or other related assets, and in the case of other securities in which a specialist makes a market, a position in options overlying the securities in which a specialist makes a market. Accordingly, a specialist in options may establish, on a share-for-share basis, a long or short position in the securities underlying the options in which the specialist makes a market, and a specialist in securities other than options may purchase or write options overlying the securities in which the specialist makes a market, if the account holds the following permitted offset positions:

(i) A short option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(ii) A long option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(iii) A short option position against which an exercise notice was tendered;

(iv) A long option position which was exercised;

(v) A net long position in a security (other than an option) in which a specialist makes a market;

(vi) A net short position in a security (other than an option) in which the specialist makes a market; or

(vii) A specified portfolio type as referred to in SEC Rule 15c3-1—Appendix A.

For purposes of this paragraph (f)(2)(J), the term "in or at the money" means the current market price of the underlying security is not more than two standard exercise intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; the term "in the money" means the current market price of the underlying asset or index is not below (with respect to a call option) or

above (with respect to a put option) the exercise price of the option; and, the term "overlying option" means a put option purchased or a call option written against a long position in an underlying asset; or a call option purchased or a put option written against a short position in an underlying asset.

Securities, including options, in such accounts shall be valued conservatively in the light of current market prices and the amount which might be realized upon liquidation. Substantial additional margin must be required or excess Net Capital maintained in all cases where the securities carried: (i) are subject to unusually rapid or violent changes in value including volatility in the expiration months of options, (ii) do not have an active market, or (iii) in one or more or all accounts, including proprietary accounts combined, are such that they cannot be liquidated promptly or represent undue concentration of risk in view of the carrying organization's Net Capital and its overall exposure to material loss.

(K) unchanged.

(L) *Exclusive designation.*—A customer may designate at the time an option order is entered which security position held in the account is to serve in lieu of the required margin, if such service is offered by the member organization; or the customer may have a standing agreement with the member organization as to the method to be used for determining on any given day which security position will be used in lieu of the margin to support an option transaction. Any security held in the account which serves in lieu of the required margin for a short put or short call shall be unavailable to support any other option transaction in the account.

(M) *Cash account transactions.*—A member organization may make option transactions in a customer's cash account, providing:

(i) The transaction is permissible under Section 220.8 of Regulation T of the Board of Governors of the Federal Reserve System; or

(ii) The transaction is a debit put spread in listed broad-based index options with European-style exercise comprised of a long put(s) coupled with a short put(s) overlying the same broad-based index with an equivalent underlying aggregate index value and the short put(s) and long put(s) expire simultaneously, and the strike price of the long put(s) exceed the strike price of the short put(s).

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 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

Regulation T of the FRB currently prescribes option margin requirements. In April 1996, the FRB amended Regulation T to effectively delegate margin requirements for options transactions for both customers and market makers/specialists, shifting responsibility for establishing margin requirements for such transactions to the self-regulatory organizations. This amendment to Regulation T will become effective June 1, 1997.

Accordingly, the proposed amendments incorporate the current FRB requirements into Exchange Rule 431 so that they may remain in effect after June 1, 1997. The proposed amendments also incorporate certain treatments of positions recognized under the Net Capital Rule.

Specifically, the proposed amendments to Rule 431 adopt provisions regarding permitted market maker and specialist offset positions from Regulation T and the Net Capital Rule. These offset positions would be subject to the same "good faith" margin treatment as currently accorded under Regulation T and would require the clearing/carrying firm to comply with the applicable haircut requirements of the Net Capital Rule for any cash margin deficiency (e.g., the difference between the margin required under Rule 431 and the amount received from the specialist/market maker). The proposal also incorporates the current Regulation T definitions of the terms "in or at the money," "in the money" and "overlying options." The parameters for permitted offsets within the "in or at the money" definition have been expanded from one to two "standard exercise intervals."

Section (f)(2)(J) of the rule has been revised in order to clarify the existing

definition of "good faith" margin requirements.

A new provision has been added (Section (f)(2)(L)) to incorporate the provisions currently contained in Regulation T regarding "exclusive designation" that allow a customer to designate which security position in an account is to be utilized to cover the required margin at the time an option order is entered; provided the member organization offers such a service.

Further, Section (f)(2)(M) has been added to incorporate those cash account transactions currently permitted under Regulation T and the debit put spread currently allowed pursuant to the Commission's no-action letter on "theoretical pricing."¹

(2) Statutory Basis

The proposed rule change is consistent with the requirements of Section (6)(b)(5) of the Securities Exchange Act of 1934 (the "Act") which provides that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public. The proposed rule change is also consistent with the rules and regulations of the Board of Governors of the Federal Reserve System for the purpose of preventing 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 of Burden on Competition

The Exchange 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

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 reason 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 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 submissions, 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 above-mentioned self-regulatory organization. All submissions should refer to the File No. SR-NYSE-97-01 and should be submitted by April 15, 1997.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 97-7393 Filed 3-24-97; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-38416; File No. SR-PHLX-97-10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to a Clarification of the Exemptions From the Exchange Examination Fee

March 18, 1997.

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 February 28, 1997, the Philadelphia Stock Exchange, Inc. ("PHLX" 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 PHLX. 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 PHLX, pursuant to Rule 19b-4 of the Act, proposes to amend one of the exemptions to its existing examination fee in order to clarify to which firms the fee is applicable. The text of the amendment to the fee schedule language is as follows (new text is italicized):

* * * * *

Examination Fee—\$1,000 monthly

This fee is applicable to member/participant organizations for which the PHLX is the DEA. The following organizations are exempt: (1) inactive organizations; (2) organizations operating from the PHLX trading floor *which have demonstrated that at least 25% of their income as reflected on the most recently submitted FOCUS Report was derived from floor activities*; (3) organizations for any month where they incur transaction or clearing fees charged directly by the Exchange or by its registered clearing subsidiary, provided that the fees exceed the examination fee for that month; and (4) organizations affiliated with an organization exempt from this fee due to the second or third category. Affiliation includes an organization that is a wholly owned subsidiary of, or controlled by or under common control with, an "exempt" member or participant organization. An inactive organization is one which has no securities transaction revenue, as determined by semi-annual FOCUS reports, as long as the organization continues to have no such revenue each month.

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 PHLX 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 PHLX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

¹ Letter dated March 15, 1994 from Brandon Becker, Director, Division of Market Regulation addressed to Ms. Mary L. Bender (CBOE) and Mr. Timothy Hinkas (OCC).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1991).