

3. If a method different from the standard sponsored projects MTC allocation method was used, describe method. Provide justification for its use and a schedule of allocation. If school filed a DS-2 submission, claimed allocation methodology may be referenced to specific section of the DS-2

## Library

1. Summary schedule for each activity included in library cost pool. It would show costs by salaries and wages, books, periodicals, and all other non-labor cost categories
2. Schedule listing all credits to library costs
3. Schedule of Full Time Equivalents (FTE) and salaries and wages in the bases used to allocate library costs to users of library services
4. If the standard allocation methodology was not used, describe the alternative method and provide justification for its use. Provide schedules of allocation statistics by function. If school filed a DS-2 submission, claimed allocation methodology may be referenced to specific section of the DS-2

## Student Services

1. If the proposed allocation base(s) differs from the stipulated standard allocation methodology provide:
- (a) Justification for use of a non-standard allocation methodology;
- (b) Description of allocation procedure; and
- (c) Statistical data to support proposed distribution process
- If school filed a DS-2 submission, claimed allocation methodology may be referenced to specific section of approved DS-2

[FR Doc. 99-20699 Filed 8-11-99; 8:45 am]

BILLING CODE 3110-01-P

## RAILROAD RETIREMENT BOARD

## Sunshine Act Meeting; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on August 18, 1999, 9 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

- (1) Occupational Disability—FCE Protocols
- (2) Fiscal Year 2001 Budget
- (3) Year 2000 Issues

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. (312) 751-4920.

Dated: August 10, 1999.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 99-20947 Filed 8-10-99; 10:10 am]

BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41706; File No. SR-NTSE-98-25]

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc., Relating to the Creation of a Floor Audit Trail

August 4, 1999.

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 August 4, 1998, the New York Stock Exchange, Inc. ("NYSE" or Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change relating to the creation of a Floor audit trail. The Exchange submitted Amendment No. 1 to its proposal on December 21, 1998.<sup>3</sup> On June 8, 1999, the NYSE submitted Amendment No. 2.<sup>4</sup> The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to adopt new provisions in NYSE Rule 123, to provide for the capturing of details of an order systemically on the Floor of the Exchange. The proposed provision

would require that the details of all orders be recorded in an electronic system prior to being represented or executed on the Floor. The text of the proposed rule change follows. New text is italicized.

## Rule 123—Records of Orders

Paragraphs headed "Given Out", "Receipt of Orders", "Cancelled or Executed", and "By Accounts", to be numbered (a), (b), (c) and (d), respectively.

## (e) System Entry Required

*No Floor member may represent or execute an order on the Floor of the Exchange unless the details of the order have been first recorded in an electronic system on the Floor. Any member organization proprietary system used to record the details of the order must be capable of transmitting these details to a designated Exchange data base within such time frame as the Exchange may prescribe. The details of each order required to be recorded shall include the following data elements, any changes in the terms of the order and cancellations, in such form as the Exchange may from time to time prescribe:*

1. *Symbol;*
2. *Clearing member organization;*
3. *Order identifier that uniquely identifies the order;*
4. *Identification of member or member organization recording order details;*
5. *Number of shares or quantity of security;*
6. *Side of market;*
7. *Designation as market, limit, stop, stop limit;*
8. *Any limit price and/or stop price;*
9. *Time in force;*
10. *Designation as held or not held;*
11. *Any special conditions;*
12. *System-generated time of recording order details, modification of terms of order or cancellation of order;*
13. *Such other information as the Exchange may from time to time require.*

\* \* \* \* \*

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

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

<sup>3</sup> In Amendment No. 1, the NYSE proposes to amend the discussion of the proposal contained in the purpose section of the original filing to provide additional information about the proposed floor audit trail system. See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, dated December 18, 1998 ("Amendment No. 1").

<sup>4</sup> In Amendment No. 2, the NYSE proposes to delete from the proposal those portions of the filing relating to proposed amendments to NYSE Rule 134 (error accounts) and the adoption of new NYSE Rule 407A (member account disclosure). The NYSE also proposes, among other things, to revise the proposed rule text to include a list of data elements to be recorded in an electronic system before an order has been represented or executed on the Exchange's trading floor. See Letter from Daniel Parker Odell, Assistant Secretary, NYSE, to Richard Strasser, Assistant Director, Division, Commission, dated June 7, 1999 ("Amendment No. 2").

.20 *Orders*—For purposes of paragraph (e), an order shall be any written, oral or electronic instruction to effect a transaction.

.21 *Orders not subject to paragraph (e) recording requirements*—Any order executed by a specialist, Competitive Trader or Registered Competitive Market Maker for his or her own account and any orders which by their terms are incompatible for entry in an Exchange system relied on by a Floor member to record the details of the order in compliance with this rule shall be exempt from the order entry requirements of paragraph (e) above.

.22 *Time standards*—Any member organization proprietary system used to record the details of an order for purposes of this rule must be synchronized to a commonly used time standard and format acceptable to the Exchange.

## 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 Exchange has proposed a series of initiatives to strengthen the regulation of activities of members on the Floor. One of the initiatives, proposed here, is the adoption of new provisions in NYSE Rule 123 for recording the details of an order, as well as any modification or cancellation of such order, in an electronic system prior to representing or executing an order on the Floor. The order initiatives, which consist of amendments to NYSE Rule 134 governing error accounts and the adoption of new Rule 407A regarding Floor member account disclosure, have been removed from this filing.<sup>5</sup> These proposed rule changes have been resubmitted in a separate filing.<sup>6</sup>

The proposed amendment to NYSE Rule 123 defines an order as any written, oral or electronic instruction to effect a transaction. Paragraph (e) of the proposed rule requires that, prior to being represented, an order, including any changes in its terms and any

cancellations, must be entered into an electronic system that records the order details specified in the rule, and records the time the order details were entered into the system and the time of any modification or cancellation. This will be a system-generated timestamp. If a proprietary system is used, this timestamp will be generated by the proprietary system rather than at the NYSE. This will require that proprietary systems and NYSE systems be synchronized to a commonly used time standard and format, as provided in section .22 of the Supplementary material accompanying the proposed rule.

Members may use either a proprietary or an Exchange system to comply with the proposed rule. If a proprietary system is used, order details must be sent to a designated NYSE data base. The systemic entry requirement would not be applicable to transactions initiated on the floor and executed by a registered competitive market maker, a competitive trader or a specialist<sup>7</sup> for their own account, as such trades may be initiated on the Floor and are already reported to the Exchange.

Other than as noted above, before representing or executing an order on the Floor, a member, whether acting as agent for another member on the Floor or otherwise, is obligated to make sure that the details of such order have been entered in an electronic system in accordance with the requirements of this rule. The details of the order may be entered into the system by an individual or organization other than the member who is representing or executing the order, but this does not relieve such member of the obligation not to represent the order unless such details have been recorded in an electronic system.

This proposed rule change does not replace existing requirements for recording orders contained in Exchange or Commission rules. For example, NYSE Rule 123, under the heading "Receipt of Orders," requires each member to preserve for three years a record of every order received by that member on the Floor from off the Floor, including the time when such order was received. NYSE Rule 410 requires each member or member organization to preserve for three years a record of every order transmitted to the Floor or received and carried to the Floor by such member or member organization, including the name and amount of security, the terms of the order, the time

it was transmitted or received, and the time an execution report was received.

Mandatory order details specified in the proposed amendments to NYSE Rule 123 consist of: symbol; clearing member organization; order identifier (as assigned by the member or member organization recording the order details)<sup>8</sup> that uniquely identifies the order; identification of member or member organization recording order details; quantity; side of market (e.g., buy, sell long, sell short, sell short exempt); designation as market, limit, stop or stop limit; limit price, stop price or stop limit price (if applicable); time in force (e.g., day, GTC, GTX);<sup>9</sup> designation as held or not held;<sup>10</sup> special conditions (e.g., rule 10b-18, "G" order and any request by a customer that an order not be displayed); and, a system-generated timestamp. The proposed rule would also require the systemic entry of such other details as the Exchange may require from time to time.

Data elements tied to execution, such as executing broker, contra broker, execution time and price are not required to be entered by this rule, as they are not available at the time that order details are entered into the system. NYSE Rule 132, the Exchange's audit trail rule, requires that these items, as well as account type and other items specified in that rule,<sup>11</sup> be submitted for each round lot transaction effected on the Exchange, either directly to the Exchange (for non-regular way trades) or through a qualified clearing agency which has agreed to supply the Exchange with such data (for regular way trades). These requirements for

<sup>8</sup> The Broker Booth Support System automatically assigns a unique order identifier to the order, but a member or member organization can choose instead to override this feature and assign its own unique identifier.

<sup>9</sup> NYSE Rule 13 provides that, if not executed, a day order expires at the end of the Exchange's 9:30 a.m. to 4:00 p.m. trading session; an order designated "GTC" remains in effect until it is either executed during the Exchange's 9:30 a.m. to 4:00 p.m. trading session or cancelled. An order designated "GTX" is similar to a GTC order, but is also eligible for execution during the Exchange's Off-Hours Trading Session. An order designated as good until a specific time would be recorded in a separate memo field (rather than in the time in force field) as a special condition or special instruction.

<sup>10</sup> Also recorded in a separate memo field (or fields) that will allow other special instructions and special conditions to be entered in a free format.

<sup>11</sup> NYSE Rule 132.30 requires the submission of the following trade data elements: (1) Security name or symbol; (2) number of shares or quantity of security; (3) transaction price; (4) time the trade was executed; (5) executing broker badge number or symbol; (6) contra side broker badge number or symbol; (7) clearing firm number or symbol; (8) contra side clearing firm number or symbol; (9) account type; and (10) such other information as the Exchange may require.

<sup>5</sup> See Amendment No. 2, *supra* note 4.

<sup>6</sup> See File No. SR-NYSE-99-25.

<sup>7</sup> See paragraph .20 of Supplementary Material accompanying the proposed rule.

audit trail submissions have been in place since 1985 and are separate from the proposed rule change.<sup>12</sup>

The Exchange is proposing to design a data base system that will enable compliance with this rule and enhance its Broker Booth Support System ("BBSS") to support various trading floor business models, while minimizing the impact on the timely execution of orders. According to the NYSE, these systems are being developed in consultation with various member committees as well as the individuals on the Upstairs Traders Advisory Committee and the Exchange Traders Advisory Committee. In addition, the Exchange has interviewed individual brokers, member firm technology departments, and service bureaus.

In addition to the data elements required by NYSE Rule 123, the Exchange's data base system will be able to record optional order data elements, including special instructions (e.g., go along, percent of volume), account type identifier (this is optional or order entry but mandatory on submission to trade comparison for audit trail), account number and any other information the firm chooses to include in the record, provided it is consistent with the format(s) accepted by the Exchange.

The Exchange also plans to modify the existing BBSS to enable compliance at trading floor booths for firms that choose a NYSE (versus a proprietary) system to comply with the proposed rule. The BBSS enables firms to enter orders that are phoned to the Floor; to receive orders delivered to the booth systemically via a proprietary system/NYSE system interface; and to enter orders from off-floor using a NYSE system. The planned enhancements to BBSS are designed to support entry of all order types and all required information as well as to speed data entry by providing quick entry templates and other data entry enhancements. The BBSS upgrade would also improve order and information management features resulting in operational efficiencies for the firms.

BBSS does not currently accept orders with fractional prices less than 1/64 or integer prices greater than 99,999. However, orders with such prices will be accepted when NYSE systems are converted to decimal format. In the event that BBSS cannot accommodate such orders at the time NYSE Rule 123 becomes effective, brokers relying on

BBSS or comply with the Rule would be exempt for orders that could not be entered through BBSS until such time as BBSS is compatible with the entry of such orders. Section .21 of the Supplementary Material to the proposed rule would specify that any orders which by their terms are incompatible for entry in an Exchange system relied on by a Floor member to record the details of the order in compliance with the proposed rule shall be exempt from its order entry requirements. However, if a proprietary system is used, that system must be capable of transmitting details of all orders to the Exchange data base.

The NYSE's system development plan includes building a new database to collect and consolidate records of orders in NYSE systems and orders that are sent to the Exchange Floor for execution through a member firm's proprietary system. The NYSE systems will be designed to provide for member firms' proprietary systems interface to the NYSE data base in Common Message Switch ("CMS"), Financial Information Exchange Protocol ("FIX"), or other NYSE-approved industry standard format. Such systems must submit a copy of the order details to the NYSE data base upon receipt of the order by the member firm's proprietary system on the Floor.<sup>13</sup> An "as of" time indicator will be required for orders entered late due to system problems. Member firms would have to notify the Exchange by the end of the following day and provide documentation of the system problem that necessitated the use of an "as of" time indicator.

The Exchange intends to communicate its system plan to member firms, then finalize NYSE system specifications, and issue interface specifications to member firms. The effective date of the proposed rule will be based on the implementation of enhancements to NYSE systems as well as the state of readiness of the member firm community. The current target is to complete NYSE systems enhancements by the end of second quarter 2000. However, this is subject to the completion of specification and design work, as well as the finalization of development, testing, and cutover schedules.

<sup>13</sup> "Upon receipt" means as soon as practicable, but no later than 60 seconds after receipt. This 60 seconds is intended to provide flexibility in implementation and is not intended to be incorporated into proprietary systems; e.g., a system that was programmed to routinely transmit a copy to the Exchange database system 60 seconds after receipt of an order would not comply with the system requirement.

The Exchange believes that the implementation of this system will allow the NYSE to track more accurately via systemic records whether an order has been received on the Floor prior to its execution. It also would address the issue of falsification of order entry times. Therefore, the Exchange believes that its ability to surveil for anomalous trading situations—such as on-Floor trading and the creation of inaccurate records, frontrunning of orders, and improper execution of customers' orders—will be enhanced.

If the Exchange, upon investigation, determines that a particular violation of this proposed rule is minor in nature, the Exchange could issue a cautionary letter. The Exchange would consider seeking approval to add the proposed provisions of NYSE Rule 123 to the list of rules contained in NYSE Rule 476A, which provides for the imposition of fines for minor violations of rules. In those instances where investigation reveals a more serious violation or repetitive violations of NYSE Rule 123, the Exchange would commence disciplinary procedures under NYSE Rule 476.<sup>14</sup>

## 2. Statutory Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)<sup>15</sup> 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. According to the NYSE, the proposed rule change is designed to accomplish these ends by strengthening the Exchange's ability to surveil the Floor activities of members.

### 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.

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

The Exchange has neither solicited nor received any written comments on the proposed rule change.

<sup>14</sup> The Exchange does not include specific reference to disciplinary matters in each rule because it believes the language in NYSE Rules 476 and 476A in all-encompassing.

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

<sup>12</sup> See File No. SR-NYSE-85-34 and Securities Exchange Act Release No. 22444 (September 20, 1985).

### 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 should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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-NYSE-98-25 and should be submitted by September 7, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-20851 Filed 8-11-99; 8:45 am]

BILLING CODE 8010-01-M

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41712; File No. SR-PCX-99-26]

#### Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to the Minimum Variation for Nasdaq-100 Shares and Disclaimer of Liability With Respect to the Nasdaq-100 Index

August 5, 1999.

Pursuant to Section 19(b) 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 July 28, 1999,<sup>3</sup> the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange subsequently filed Amendment No. 2 on July 30, 1999.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and simultaneously is approving the filing.

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

The Exchange proposes to amend its rules on trading differentials to permit dealings in Nasdaq-100 Shares of the Nasdaq-100 Trust ("Nasdaq-100 Shares") in increments of 1/64th of \$1.00, and to amend its Portfolio Depositary Receipts rules to include a disclaimer of liability with respect to the Nasdaq-100 Index in connection with the trading of the Nasdaq-100 Shares.

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

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

<sup>3</sup> The proposal was originally submitted on July 21, 1999, but was not complete. The Exchange subsequently submitted Amendment No. 1, which replaced the original filing in its entirety.

<sup>4</sup> In Amendment No. 2, the Exchange proposes (1) to add a new commentary .03 to PCX Rule 8.300 to state that the Exchange will trade, pursuant to unlisted trading privileges, Nasdaq-100 Shares that will be based on the Nasdaq-100 Index; and (2) to amend proposed PCX Rule 8.300(g) relating to disclaimers of liability of the Nasdaq-100 Index. See Letter from Robert P. Pacileo, Attorney, PCX, to Michael A. Walinskas, Associate Director, Division of Market Regulation, Commission, dated July 29, 1999 ("Amendment No. 2").

### 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 III 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 proposes to amend PCX Rule 5.3(b), on trading differentials, to permit dealings in Nasdaq-100 Shares in increments of 1/64th of \$1.00. The Nasdaq-100 Trust is a unit investment trust sponsored by Nasdaq-Amex Investment Product Services, Inc. with a portfolio based on the component stocks of the Nasdaq-100 Index. The Exchange intends to trade the Nasdaq-100 Shares pursuant to unlisted trading privileges under the Exchange's Portfolio Depositary Receipts Rules 8.300 *et seq.*<sup>5</sup> Further, the Exchange proposes to codify language in PCX Rule 8.300, Commentary .03, to reflect that the Exchange will trade Nasdaq-100 Shares pursuant to unlisted trading privileges.<sup>6</sup> These securities are currently traded on the Amex in increments of 1/64th of \$1.00,<sup>7</sup> and thus, the Exchange believes that it is appropriate to trade these securities on the Exchange with the same minimum increment of 1/64th of \$1.00 as well.

In connection with the Exchange's licensing agreement with the Nasdaq Stock Market ("Nasdaq"), relating to liability for the calculation of the Nasdaq-100 Index in connection with the trading of the Nasdaq-100 Shares, the Exchange proposes to add PCX Rule 8.300(g) to codify a rule governing disclaimers of liability relating to the Nasdaq-100 Index. The Exchange represents that proposed PCX Rule 8.300(g) is consistent with the

<sup>5</sup> The Exchange represents that American Stock Exchange's ("Amex") PDR Rules 1000 through 1003 and the PCX's PDR rules 8.300(a) through 8.300(f) are substantially the same.

<sup>6</sup> See Amendment No. 2, *supra* note 4.

<sup>7</sup> See Securities Exchange Act Release No. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (SR-Amex-98-34).

<sup>16</sup> 17 CFR 200.30-3(a)(12).