

filing will also be available for inspection and copying at the principal office of MBSCC. All submissions should refer to the File No. SR-MBSCC-98-04 and should be submitted by February 5, 1999.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵ that the proposed rule change (File No. SR-MBSCC-98-04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-922 Filed 1-14-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40887; File No. SR-NYSE-98-48]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval to Proposed Rule Change by the New York Stock Exchange, Inc. Instituting A Pilot Program To Amend Paragraph 902.02 of the Exchange's Listed Company Manual and Requested Permanent Approval of the Pilot Program

January 6, 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 December 28, 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 and II below, which Items have been prepared by the NYSE. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the portion of the proposed rule change instituting a three-month pilot program pending the Commission's review of the proposed rule change.

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

The Exchange proposes to implement a three-month pilot program (the "Pilot") to amend Paragraph 902.02 of the Exchange's Listed Company Manual

(the "Manual"). In addition, the Exchange seeks permanent approval of the proposed amendments to Paragraph 902.02 of the Manual. Paragraph 902.02 of the Manual contains the schedule of current listing fees for companies listing securities on the Exchange.

The text of the proposed rule change is available at the Office of the Secretary, NYSE 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 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 III 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

The proposed rule change amends the listed company fee schedule, set forth in Paragraph 902.02 of the Manual, as it applies to certain business combinations. Specifically, the Exchange is codifying its long-standing interpretation of the term "amalgamation," and deleting language inconsistent with the application of that definition. Further, the Exchange is making non-substantive clarifications to the provision of the Manual that states that the fee for a company listing as a result of an amalgamation is 25% of the basic initial fee.

The Exchange's long-standing interpretation of the term "amalgamation" is the consolidation of two or more NYSE listed companies into a new company. It is proposed to codify this definition into Paragraph 902.02 of the Manual. While language to that effect currently exists in the Manual, a "housekeeping" change is required to clarify that (1) an amalgamation is defined as the consolidation of two or more NYSE listed companies into a new listed company, and (2) a reduced initial fee will be applied to listings resulting from an amalgamation.

A further housekeeping change is required as the result of a recent change to Paragraph 902.02 of the Manual, currently in effect as a pilot, which implemented a reduced listing fee for

mergers between an NYSE listed company and a non-NYSE listed company.³ Specifically, current language is being deleted from the rule that refers to the merger of listed companies into an unlisted company which becomes listed.⁴ This language is no longer necessary in light of the recent amendments.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(4)⁵ that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

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 written comments on the proposed rule change.

III. 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

³ See Exchange Act Release No. 40698; File No. SR-NYSE-98-40.

⁴ The Commission notes that when an NYSE listed company merges with another NYSE listed company that becomes unlisted and then lists on the NYSE, the full fee shall apply. Telephone conversation between Daniel Beyda, Associate General Counsel, NYSE; David Sieradzki, Special Counsel, Division of Market Regulation ("Division"), Commission; and Robert Long, Attorney, Division, Commission on January 4, 1999.

⁵ 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

available for inspection and copying in the Commission's Public Reference Room at 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-98-48 and should be submitted by February 5, 1999.

IV. 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 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 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.

V. Commission's Findings and Order Granting Partial Accelerated Approval of the Proposed Rule Change

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 of the Act.⁶ More specifically, the Commission believes that the portion of the proposed rule change dealing with the three-month pilot is consistent with Section 6(b)(4) of the Act,⁷ which requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities.⁸ The Commission believes that the proposal may ease the financial burdens of merger transactions with NYSE-listed issuers, thus facilitating capital formation and competition among exchanges and other markets.

The Commission finds good cause for approving the three-month pilot prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. This accelerated approval will permit Exchange-listed issuers to take advantage of the Exchange's initial listing fee reduction program on an expedited basis while the

Commission undertakes a more exhaustive review of the proposal. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) and Section 19(b)(2) of the Act, to grant accelerated approval to the three-month pilot.⁹ The Commission notes, however, that approval of the pilot should not suggest a predisposition regarding the ultimate approval of the proposal on a permanent basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-NYSE-98-48) is approved on an accelerated basis until April 5, 1999.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-921 Filed 1-14-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40888; File No. SR-PCX-98-57]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. To Amend Equity Floor Procedure Advice 2-C To Remove an Exception Regarding Trade Reporting Responsibilities

January 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ notice is hereby given that on November 6, 1998, the Pacific Exchange, Inc. ("PCX" 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 PCX. 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

PCX is proposing to change Equity Floor Procedure Advice 2-C. Specifically, the Exchange proposes to delete the second exception to Rule 5.12 in Equity Floor Procedure Advice 2-C. Below is the text of the proposed rule

change. Proposed new language is in *italics* and deletions are in [brackets].

* * * * *

EQUITY FLOOR PROCEDURE ADVICES

* * * * *

2-C

¶ 7630 Subject: Reporting of Transactions Executed at the Exchange

Rule 5.12(a) [I, Section 16(a), of the Rules of the Board of Governors of the Pacific Exchange, Inc.] provides that the seller is responsible for ensuring that a transaction executed at the Exchange is properly recorded. This requirement is subject to *the following* [two] exception[s]: [1. Pursuant to Rule 5.12(b), [I, Section 16(b),] inter-floor "limit sell orders" are to be reported from the floor on which the order was placed and executed.

[2. Transactions in local issues in which the specialist acts as the buyer and the seller is located on the opposite trading floor are to be promptly reported to the tape by the specialist. The seller is required to submit a "goldenrod" ticket to report the transaction for clearing purposes only.]

The Exchange has found that *this* [these] exception[s] to the general reporting procedures occasionally results in transactions not being reported to the tape. Because it is essential that all trades executed at the Exchange be promptly reported for dissemination to the Exchange community and the public, violations of the trade reporting requirements will be investigated and may result in the imposition of fines or other disciplinary action.

The following schedule will serve as a guideline for penalties to be imposed for violations of this floor procedure advice:

1st Violation: Official Warning
2nd Violation: \$250.00
3rd Violation: \$500.00

This schedule is based on the number of violations for a particular security, calculated on a monthly basis. This schedule is intended to apply to inadvertent violations of *this* [the] floor procedure advice *that* [which] are not attributable to clerical errors by Exchange staff or other mitigating circumstances. In cases of deliberate violations or other aggravated circumstances, other disciplinary action may be deemed to be appropriate.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX 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. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

⁸ In approving the three-month pilot, the Commission has considered the pilot's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).