

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. On June 26, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.¹ 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 Exchange is proposing to amend its Minor Rule Plan so that it includes violations of the Intermarket Trading System ("ITS") rules, which are set forth in PSE Rules 5.20–5.23. The text of the proposed rule change is as follows [new text is italicized]:

¶ 6133 Minor Rule Plan

Rule 10.13(a)–(h)—No change.

(i) Minor Rule Plan: Equity Floor Decorum and Minor Trading Rule Violations

(i)(1)–(i)(8)—No change.

(i)(9) *Failure to follow the provisions of the rules and regulations governing the use of the Intermarket Trading System (ITS) (Rules 5.20–5.23)*

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Minor Rule Plan

Recommended Fine Schedule

(Pursuant to Rule 10.13(f))

Rule 10.13(i)

Equity Floor Decorum and Minor Trading Rule Violations

	1st violation	2nd violation	3rd violation
1–8—No change.			
9—Failure to follow the provisions of the rules and regulations governing the use of the Intermarket Trading System (ITS) (Rules 5.20–5.23)	\$500	\$1,000	\$2,000

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 Exchange's Minor Rule Plan ("MRP"),² set forth in PSE Rule 10.13, provides that the Exchange may impose a fine not to exceed \$5,000 on any member, member organization, or person associated with a member or member organization, for any violation of an Exchange rule that has been deemed to be minor in nature and approved by the Commission for inclusion in the MRP. Rule 10.13, subsections (h)–(j), set forth the specific Exchange rules deemed to be minor in nature.

The Exchange is proposing to add the following provision to the MRP as Rule 10.13(i)(9): "Failure to follow the provisions of the rules and regulations governing the use of the Intermarket Trading System (ITS) (PSE Rules 5.20–

5.23)." The Exchange is also proposing to amend its Recommended Fine Schedule to establish the following recommended fines (on a running two-year basis) for violations of the ITS rules and regulations: \$500 for a first-time violation; \$1,000 for a second-time violation; and \$2,000 for a third-time violation.³

The Exchange believes that the ITS rules proposed to be added to the MRP are either objective or technical in nature and are easily verifiable, thereby lending themselves to the use of expedited proceedings. The Exchange further believes that violations of the ITS rules may require sanctions more severe than a warning or cautionary letter, but that full disciplinary proceedings (pursuant to Rule 10.3) would, in general, be unsuitable because they would be costly and time consuming in view of the minor nature of the violations. Nevertheless, the Exchange notes that if a violation of an ITS rule is particularly egregious or if the individual situation warrants such action, the Exchange may proceed with formal disciplinary action pursuant to Rule 10.3, rather than with the MRP procedures under Rule 10.13. The Exchange further notes that the Commission has recommended that the Exchange add ITS violations to the PSE Minor Rule Plan.⁴ Finally, the Exchange notes that the addition of the ITS rules to the MRP would be consistent with the rules of the New York Stock Exchange.⁵

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act, in general, and Sections 6(b)(5) and 6(b)(6), in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest, and to provide that members of the Exchange are appropriately disciplined for violations of Exchange rules.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

¹ See letter from Michael Pierson, Senior Attorney, PSE, to Jennifer S. Choi, Attorney, SEC, dated June 23, 1995. Amendment No. 1 withdraws the proposed changes to the Equity Floor Procedure Advice 2–B because these changes have been approved already by the Commission. See Securities Exchange Act Release No. 34760 (Sept. 30, 1994), 59 FR 50950 (Oct. 6, 1994) (approving File No. SR-PSE-94-13).

² The MRP was initially approved by the Commission in 1985. See Securities Exchange Act Release No. 22654 (Nov. 21, 1985), 50 FR 48853 (Nov. 27, 1985). Since 1985, the MRP has been amended several times. See, e.g., Securities Exchange Act Release No. 34322 (July 6, 1994), 59 FR 35958 (July 14, 1994).

³ For a discussion of the Exchange's Recommended Fine Schedule, see Securities Exchange Act Release No. 34322 (July 6, 1994), 59 FR 35958 (July 14, 1994).

⁴ See Inspection Report on the Operation of the Intermarket Trading System 3 (Nov. 18, 1994).

⁵ See NYSE Rule 476A (Supplementary Material).