

conclusion is based, in large part, on the Exchange's one-day review of limit orders against which orders were stopped pursuant to this pilot program. As part of this review, which focused on three of the ten stocks receiving the greatest number of stops, the NYSE determined how often such book orders were executed at their limit price by the close of the day's trading. In addition to aggregated data, the Exchange provided a detailed breakdown of the disposition of each order.

The Commission has historically been concerned that book orders get bypassed when stock is stopped, especially in a minimum variation market.<sup>15</sup> Based on the NYSE's prior experience, the Commission did not have sufficient grounds to conclude that this long-standing concern had been alleviated. The Commission acknowledges, however, that the fourth monitoring report proves new information on this aspect of the pilot program. As a result, the Commission finds that additional time is necessary for the Commission to review such information and to ensure that Rule 116.30, as amended, does not harm public customers with limit orders on the specialist's book.

Finally, the NYSE report describes its compliance efforts (e.g., automated surveillance, review of Floor Official records, information memos, continuing education). The Commission believes that these programs provide specialists with adequate notice of their responsibilities. Similarly, the Exchange has sufficient means to determine whether a specialist complied with the amendments' order size and aggregate share thresholds and, if not, whether Floor Official approval was obtained for larger parameters. The Commission would expect the NYSE to take appropriate action in response to any instance of specialist non-compliance with the pilot procedures. In considering permanent approval of the amendments to Rule 116.30, the Commission would place great weight on the Exchange's record in compliance matters.

During the pilot extension, the Commission requests that the Exchange continue to monitor the effects of stopping stock in a minimum variation market and to provide additional

information where appropriate. Moreover, if the Exchange determines to request permanent approval of the pilot program or an extension thereof beyond July 21, 1995, the NYSE should submit to the Commission a proposed rule change by April 1, 1995.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.<sup>16</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change (SR-NYSE-95-02) is approved for a four month period ending on July 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**Self-Regulatory Organizations; Pacific Clearing Corporation; Notice of Filing of a Proposed Rule Change Amending Certain Provisions of the PCC's Rules, Participant Agreement, and Clearing Fund Agreement**

February 1, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on November 28, 1994, the Pacific Clearing Corporation ("PCC") 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 primarily by PCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>16</sup> No comments were received in connection with the proposed rule change which implemented these procedures. See 1991 Approval Order, *supra*, note 1.

<sup>17</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>18</sup> 17 CFR 200.30-3(a)(12) (1991).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

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

PCC proposes to correct certain typographical errors in its rules and to clarify certain provisions regarding post capital in its standard participant agreement and clearing fund agreement.

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

In its filing with the Commission, PCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCC 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**

The primary purpose of PCC's proposed rule change is to correct typographical errors to certain provisions of PCC's rules and to clarify certain provisions of its standard participant agreement and clearing fund agreement relating to specialist post capital.

Specifically, PCC proposes to correct typographical errors to the Table of Contents; PCC Rule 1.2(f), defining the term "long position"; PCC Rules 2.1(c) and 2.1(d), addressing membership qualifications and approval; and PCC Rule 9.3(c)(iii) addressing specialist post termination procedures. In addition, PCC proposes to amend PCC Rule 5.2 to clarify that any reductions to excess post capital or a member's clearing fund deposit cannot be made for amounts that would reduce the member's post capital or clearing fund deposit below the minimum requirement.

With respect to the participant agreement, PCC proposes to amend certain paragraphs relating to post capital. Paragraph 3.1(e)(iii) will be amended to clarify that it refers to the monitoring of post capital rather than net capital as it currently states. Paragraph 4.5 of the participant agreement will be amended so that post capital is distinguished from net capital. Net capital, which is specified by PSE Rule 2.1 and Rule 15c3-1 of the Act, remains constant for a firm regardless of the number of specialist posts it operates. In contrast, post capital varies because it represents the amount of capital required to be maintained by a firm based on the number of specialists

if a substantial imbalance exists on the opposite side of the market. See *supra*, notes 9-13 and accompanying text. In those circumstances, the stock would probably trade away from the large imbalance, resulting in execution of orders on the book.

<sup>15</sup> See, e.g., SEC. Report of the Special Study of the Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963).