transactions.[6] The proposal gives to participants the flexibility to establish alternative settlement cycles when agreed to by the parties. Without such an alternative, parties to a transaction with a nonstandard settlement cycle would either need to submit the trade to FUND/SERV at a later date (to get an extended settlement cycle) or to settle the trade outside of Fund/SERV. The proposal should allow mutual fund transactions to settle more efficiently and may encourage the settlement of more transactions through the automated Fund/SERV system. Thus, the proposal promotes the prompt and accurate clearance and settlement of mutual fund transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–NSCC–96–10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–20786 Filed 8–14–96; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37543; File No. SR–PSE–96–12]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments to Proposed Rule Change Relating to Financial Arrangements of Market Makers

August 8, 1996.

I. Introduction

On April 5, 1996, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend its rules on the trading restrictions that apply to options floor members with ''financial arrangements'' as defined in PSE Rule 6.40. The proposed rule change was published for comment in the Federal Register on May 15, 1996.[3] The Exchange filed Amendment Nos. 1[4] and 2[5] to its proposal on June 27, 1996, and July 25, 1996, respectively. No comments were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of the Proposal

PSE Rule 6.40(a) currently provides that two members have a ''financial arrangement'' with each other for purposes of Rule 6.40 if: (1) One member directly finances the other member's dealings on the Exchange and has a beneficial interest in the other member's trading account such that the first member is entitled to at least 10% of the second member's trading profits; or (2) both members are trading for the same joint account. Rule 6.40(b) provides that two members with a financial arrangement may not bid, offer and/or trade in the same trading crowd without a written exemption from two floor officials.[6] Current Commentary .06 sets forth the circumstances under which the OFTC ordinarily may grant an exemption to those trading restrictions, *i.e.*, to provide liquidity in the trading crowd.

The Exchange proposes to redefine the term ''financial arrangement'' for purposes of Rule 6.40, so that two members have a financial arrangement with each other if: (1) One member directly finances the other member's dealings on the Exchange, the amount financed is $5,000 or more, and the member providing the financing is entitled to a share of the other member's trading profits; or (2) both members are registered with the Exchange as nominees of the same member Organization; or (3) both members are registered with the Exchange to trade on behalf of the same joint account; or (4) both member's dealings on the Exchange are financed by the same source, the amount financed is $5,000 or more, and the member providing the financing is entitled to a share of each of the other member's trading profits. The proposal states that members with ''financial arrangements,'' as defined, may not bid, offer and/or trade in the same trading crowd at the same time in the absence of an exemption from the OFTC.

The proposal further provides for both long-term and short-term exemptions that can be provided by the OFTC or two Floor Officials, respectively. Proposed Rule 6.40(b)(4) states, more specifically, that the OFTC may grant long-term exemptions to members on a case-by-case basis if it determines that a fair and orderly market would not be impaired by allowing such members with financial arrangements to trade in the same trading crowd at the same time. In making such determinations, the OFTC shall consider the following factors: (1) The nature of the financial arrangement; (2) the degree of independence to be maintained by the applicants in making trading decisions; (3) the impact on competition in the trading crowd if an exemption were granted; (4) the applicant's prior patterns of trading if they have traded previously in the same trading crowd at the same time; and (5) any other information relevant to whether the applicants would tend collectively to dominate the market in a particular trading crowd or a particular option series. The proposal further states that the Committee may revoke any long-term exemption granted pursuant to this subsection if it determines that a fair

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 37186 (May 9, 1996), 61 FR 24521.

[4] Amendment No. 1 effects three changes to the Exchange's proposal. First, the proposed amendment to PSE Rule 6.40(b)(2) is modified so that a reference to ''options series'' is replaced by one to ''trading crowd.'' Second, a new Rule 6.40, Commentary .01 is introduced to retain what is essentially current Commentary .04. Third, the numbering of the Minor Rule Plan addition is changed from ''28'' to ''29'' because Item 28 already was used in another filing. Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated June 26, 1996 (''Amendment No. 1'').

[5] Amendment No. 2 effects several changes to the Exchange's proposal. First, the Exchange is adding the phrase ''so represented or executed'' to the third line of subsection (b)(2) to Rule 6.40, and also is making some other technical changes to the text of that subsection. Second, the first line of subsection (b)(4), relating to exemptions, which introduces subsections (A) and (B), has been modified to address exemptions generally. Third, proposed 6.40(b)(4)(A) has been modified to reflect that long-term exemptions will be reviewed at least annually. Fourth, the title of Rule 6.40 has been changed to ''Financial Arrangements of Options Floor Members.'' Fifth, the Exchange notes that decisions to grant or revoke an exemption will be reflected in the Options Floor Trading Committee's (''OFTC'' or ''Committee'') minutes, and members whose exemptions are granted or revoked will be so notified in writing. Finally, the reference to ''specialists'' in 6.40(c) has been deleted. Amendment No. 2 also describes the manner in which previously-granted long-term exemptions will be reviewed. Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Francois Mazur, Attorney, Division of Market Regulation, Commission, dated July 24, 1996 (''Amendment No. 2'').

[6] Under PSE Rule 6.40, Commentary .05, two or more Lead Market Makers (''LMMs'') who are trading on behalf of the same member organization may not trade in the same option series at the same time, but may trade in the same trading crowd at the same time.

and orderly market otherwise would be impaired by a continuation of the exemption. A decision to grant a long-term exemption will be reflected in the OFTC's minutes. Under the proposal, the Committee will review all long-term exemptions at least annually.[7] In addition, with respect to previously-granted long-term exemptions, the OFTC will reserve its right to revoke a long-term exemption if it finds that the circumstances on which an exemption was based have changed.[8] The OFTC's decision would be reflected in the OFTC minutes and the members whose exemption has been revoked will be so notified in writing.

With respect to short-term exemptions, the proposal states that two Floor Officials may grant short-term exemptions to members on a case-by-case basis if such Floor Officials determine that a fair and orderly market would not be impaired and that the need for liquidity in the trading crowd warrants such action.

The proposed definition of ''financial arrangement'' would expand the types of arrangements to which that term applies. Specifically, the current rule allows two or more members who are backed financially by the same source (*i.e.*, members with ''indirect'' financial arrangements), to trade in the same crowd or same series as long as they are not receiving trading profits from each other and are not trading for the same joint account. This may allow situations that violate the spirit, but not the letter, of Rule 6.40. Although current Commentary .04 to Rule 6.40 seeks to address such arrangements by expressly prohibiting unfair domination of markets, the Exchange proposes to remove this provision in light of the expanded definition of ''financial arrangement'' it proposes.

The Exchange also proposes to remove a provision in the current rule that states that the primary appointment of a market maker may not include trading posts that constitute the primary appointment of any market maker with whom the first market maker has an existing financial arrangement.[9]

The exchange proposes to revise one of the trading restrictions imposed by Rule 6.40 by replacing a reference to ''option series'' with one to ''trading crowd.'' The effect of this change is to prevent a market maker from bidding, offering, or trading in the same trading crowd in which a floor broker holds an order on behalf of a market maker with whom he has an existing financial arrangement. In addition, orders of market makers having existing financial arrangements may not be represented concurrently, by one or more floor brokers, in a particular trading crowd.[10]

Finally, the PSE proposes to add violations of Rule 6.40(b) to the Exchange's Minor Rule Plan [11] with recommended fines of $500, $1,000 and $1,500 for first-, second- and third-time violations, respectively.

III. Discussion

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 Section 6(b)(5) of the Act, in that the proposal is designed to protect investors and the public interest. Specifically, the Commission finds, as it did in originally approving Rule 6.40,[12] that full disclosure of financial arrangements among PSE market makers, members, and member organizations pursuant to Rule 4.18 (''Disclosure of Financial Arrangements of Market Makers'') helps the Exchange better to identify and deter potential trading abuses among affiliated PSE members and member organizations. In addition, with such disclosure, the Exchange's ability to monitor the financial condition of its members and member organizations is enhanced. The Commission believes that the proposed amendments to Rule 6.40 do not detract from these benefits in any material manner, and thus are consistent with the Act.

The Commission believes that it is appropriate for the Exchange to amend the definition of ''financial arrangement'' to focus on the nature of the financial interest that a member may have in a market maker's trading account. The Commission believes that the amended definition will help the Exchange achieve a balance whereby it can still restrict the types of activity for which the rule was intended, without unnecessarily removing liquidity from its trading crowds. The Commission notes that the Exchange will continue to grant short-term exemptions to members on a case-by-case basis if two floor officials determine that the need for liquidity in the trading crowd warrants such action. In addition, the Exchange's proposal provides for long-term exemptions if the OFTC determines that a fair and orderly market would not be impaired by allowing such members with financial arrangements to trade in the same trading crowd at the same time. The Commission believes that the availability of long-term exemptions, together with the factors to be considered by the OFTC in determining that a fair and orderly market would not be impaired by such an exemption, should address situations where it would be unnecessary to restrict members with a financial arrangement.

The Commission believes that the Exchange's proposal to remove the provision prohibiting the primary appointments of market makers with financial arrangements with each other from overlapping (current Commentary .02 to Rule 6.40) is consistent with the Act. The Commission agrees with the Exchange that that provision is superfluous in light of the trading restrictions set forth in Rule 6.40. In addition, as noted by the Exchange, permitting members trading for joint accounts to establish overlapping primary appointment zones should allow for coverage on the floor when members who trade for those accounts are temporarily absent from the floor.[13]

The Commission believes that the PSE's proposal to add violations of Rule 6.40(b) to the Exchange's Minor Rule Plan is consistent with the Act. The Commission agrees with the Exchange that violations of Rule 6.40(b) are easily ascertainable and easily verifiable, and, therefore, are appropriate for inclusion in the Minor Rule Plan.[14]

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of

[7] Amendment No. 2, *supra* note 5.

[8] Amendment No. 2, *supra* note 5. For example, if the Committee grants a long-term exemption to two market makers, and the Exchange later is notified pursuant to Rule 4.18 that the nature of those market makers' financial arrangement with respect to each other has changed, the Exchange staff will request that the OFTC determine whether to revoke the exemption. Another situation would be one where two market makers with a financial arrangement and a long-term exemption change their patterns of trading in the same crowd, so that they would be jointly dominating the market in a particular option issue or series. The Exchange could detect this either by complaints from members of the trading crowd or by routine surveillance. Again, in this instance, Exchange staff would submit this to the OFTC for review. *Id.*

[9] *See* PSE Rule 6.35, Commentary .05.

[10] Amendment No. 1, *supra* note 4.

[11] PSE Rule 10.13.

[12] Securities Exchange Act Release No. 32775 (August 20, 1993), 58 FR 45368.

[13] In this regard, the Exchange notes that the Commission recently approved a PSE rule change to increase from two to six the maximum number of trading posts that may be included within a market maker's primary appointment zone. *See* Exchange Act Release No. 36370 (October 13, 1995), 60 FR 54273.

[14] Rule 19D–1(c)(2) under the Act, 17 CFR 240.19d–1(c)(2), authorizes national securities exchanges to adopt minor rule violation plans for the summary discipline and abbreviated reporting of minor rule violations by exchange members and member organizations. The Exchange's Minor Rule Plan initially was approved by the Commission in 1985. Securities Exchange Act Release No. 22654 (November 21, 1985), 50 FR 48853.

publication of notice thereof in the Federal Register. Amendment Nos. 1 and 2 consist of clarifying changes that serve to strengthen the Exchange's proposal, but do not materially alter the terms of the proposal as originally described when published for comment.[15] Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of that Act, to approve Amendment Nos. 1 and 2 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2. 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 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 CBOE. All submissions should refer to File No. SR–PSE–96–12 and should be submitted by September 5, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–PSE–96–12), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–20787 Filed 8–14–96; 8:45 am]

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[15] Securities Exchange Act Release No. 37186, *supra* note 3.

[16] 15 U.S.C. 78s(b)(2) (1988).

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board [1]

[STB Finance Docket No. 32957]

Norfolk and Western Railway Company—Acquisition Exemption—Consolidated Rail Corporation

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board exempts, under 49 U.S.C. 10502, from the prior approval requirements of 49 U.S.C. 11323–25, the acquisition [2] by Norfolk and Western Railway Company (NW) of a portion of Consolidated Rail Corporation's (Conrail) Pekin Secondary Track,[3] between milepost 28.5, at Urbana, and milepost 78.3, at Bloomington, in Champaign, Dewitt, and McLean Counties, IL, totaling 49.8 miles, subject to standard employee protective conditions. The exemption includes the acquisition, through assignment from Conrail, of trackage rights [4] between NW milepost 373.54, at Bloomington, and NW milepost 410.72, at Peoria, IL, totaling 37.18 miles.[5]

DATES: This exemption is effective on August 30, 1996. Petitions to reopen must be filed by September 9, 1996.

ADDRESSES: Send pleadings referring to STB Finance Docket No. 32957 to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423; (2) John J. Paylor, Two Commerce Square-16A, 2001 Market Street, Philadelphia, PA 19101–1416; and (3) Robert J. Cooney, Three Commercial Place, Norfolk, VA 23510–2191.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, NW., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: August 9, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–20844 Filed 8–14–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

[2] NW seeks an exemption both to acquire and to operate, and the petition is styled accordingly. While an exemption from the requirements of 49 U.S.C. 11323–25 for NW's acquisition and operation is consistent with the standards of 49 U.S.C. 10502, we note that NW requires neither separate authority nor an exemption to operate the line being acquired. When a rail carrier petitioned for an exemption to acquire or lease a rail line from another rail carrier under former 49 U.S.C. 11343 of the Interstate Commerce Act, the ICC normally also exempted the operation of the line, if requested, but the exemption to operate was not necessary. The status of the purchaser or lessor, as a carrier, coupled with the purchase agreement or lease, constituted sufficient authority to conduct operations. Similarly, authority or an exemption for a carrier to acquire or lease a line under 49 U.S.C. 11323–25 of the ICCTA provides the necessary authority to conduct operations.

[3] Conrail filed a notice of exemption to abandon the portion of the Pekin Secondary Track between milepost 4.00 and milepost 28.50 in *Consolidated Rail Corporation—Abandonment Exemption—in Vermilion and Champaign Counties, IL,* STB Docket No. AB–167 (Sub-No. 1161X) (STB served June 28, 1996). The abandonment exemption is contingent upon the issuance of an exemption in this proceeding and upon NW's acquisition of the line pursuant to that exemption.

On July 8, 1996, Grand Prairie Co-op, Inc. (Grand Prairie), filed a notice of intent to file an offer of financial assistance (OFA) under 49 CFR 1152.27(c)(2) for a portion of the line involved in STB Docket No. AB–167 (Sub-No. 1161X). Also on July 8, 1996, the Illinois Legislative Director for the United Transportation Union (UTU) filed a petition for stay of the abandonment exemption. On July 17, 1996, Conrail replied to UTU's stay request. On July 18, 1996, UTU filed a petition to reject or to revoke the notice of exemption, which UTU states is a supplement to its July 8 petition to stay. On July 23, 1996, Grand Prairie filed a petition requesting the Board to toll the 30-day period for filing its OFA or, in the alternative, to deny the exemption in STB Finance Docket No. 32957. On July 26, 1996, Conrail replied to UTU's petition to reject or revoke. By decision served August 2, 1996, the time for filing OFAs was extended to August 12, 1996, and the effectiveness of the exemption in STB Docket No. AB–167 (Sub-No. 1161X) was extended to August 22, 1996.

[4] These trackage rights were acquired by Conrail from NW in *Consolidated Rail Corporation—Trackage Rights Exemption—Between Bloomington and Peoria, IL,* Finance Docket No. 30311 (ICC served Dec. 12, 1983), to allow abandonment of Conrail's parallel line, which served no local customers and was in need of rehabilitation. Upon conveyance of these trackage rights to NW, the owner of the line, the trackage rights will effectively merge with NW's ownership and cease to exist as separate rights.

[5] By letter to the Board dated July 12, 1996, petitioner corrected an error in the milepost description of the trackage rights. The original notice in Finance Docket No. 30311 and the petition for exemption in this proceeding stated that the trackage rights were over 38.18 miles of track, instead of the actual mileage between the mileposts, which is 37.18 miles.