transactions to be effected ''in a reasonable and orderly manner'' in relocation to the overall market. The rule also requires the market in the particular stock and the adequacy of the specialist's position to meet the reasonably anticipated needs of the market. NYSE Rule 104.10(6)(i)(A) provides that specialist may liquidate a position by selling stock on a direct minus tick or by purchasing stock on a direct plus tick (destabilizing ticks), only if the transaction is reasonably necessary in relation to the specialist's overall position in the stock and if the specialist obtains Floor Official approval. Floor Official approval provides an independent review of these destabilizing transactions for compatibility with the reasonableness test.

NYSE Rule 104.10(6)(i)(C) provides an exception to the Floor Official approval requirement for specialist purchases and sales on destabilizing ticks to offset positions acquired by the specialist in executing odd-lot orders on the same day. Odd-lot orders are executed throughout the day in the odd-lot system against the specialist in that stock. Periodically, the specialist receives an automated notification of the net amount of odd-lots that have been executed against his or her position. The specialist can then offset these odd-lot transactions by buying or selling for his or her own account.

The basis for the exception was that these odd-lot offsets would not have an impact on the market as a whole. However, there has been a marked increase in the volume of odd-lot transactions in the last several years [5] and, as a result, an increase in specialist offset transactions. The Exchange believes that odd-lot offsets should be treated as other liquidating transactions and be netted with round lot transactions. All destabilizing transactions would require Floor Official approval pursuant to Exchange Rules.[6] Therefore, the Exchange is proposing to delete the exception for odd-lots in paragraph (C).

III. Discussion

After careful review, 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.[7] In Particular, the Commission believes the proposal is consistent with the requirements of sections 6(b)(5) and 11(b) of the Act.[8] Section 6(b)(5) provides, in part, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Section 11(b) allows exchanges to promulgate rules relating to specialists to maintain fair and orderly markets.

Pursuant to Rule 11b–1(a)(2)(ii) under the Act, the rules of a national securities exchange must provide, as a condition of a specialist's registration, that a specialist engage in a course of dealings for his own account to assist in the maintenance, so far as practicable, of a fair and orderly market.[9] NYSE Rule 104.10(6) regulates specialist transactions on the Exchange. Currently, odd-lot transactions are excluded from Exchange Rule 104.10(6)(i)(A), which regulates when specialists may trade, for their own account on destabilizing ticks. These transactions were excluded from the provisions of Rule 104.10(6)(i)(A) because odd-lot volume was relatively small and presumably did not have significant market impact.

The Exchange represents that odd-lot volume has increased significantly.[10] As a result, odd-lot destabilizing transactions could impact the market price of a security. The Commission believes that specialist purchases and sales on destabilizing ticks should be effected in a reasonable manner because of their potential destabilizing effect on the market. Under the proposed rule change, these destabilizing odd-lot transactions would be governed by NYSE Rule 104.10(6)(i)(C), which permits such transactions if they are reasonably necessary and the specialist obtains the prior approval of a Floor Official.[11] The Commission believes that it is reasonable and consistent with the Act to subject destabilizing odd-lot transactions to the same level of scrutiny currently applicable to other destabilizing transactions. The proposal should help ensure that odd-lot destabilizing transactions are effected in a manner consistent with the maintenance of fair and orderly markets.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–NYSE–98–34) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–4960 Filed 2–26–99; 8:45 am]

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[5] Odd-lot volume exceeded 1 billion shares on the NYSE in 1997, an 87% increase from 1994. Telephone conversation between Agnes Gautier, Vice President, Market Surveillance, NYSE, and Robert B. Long, Attorney, Division, Commission, on October 23, 1998.

[6] *See* NYSE Letter, *supra* note 4.

[7] In approving this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5) and 78k(b).

[9] 17 CFR 240.11b–1(a)(2)(ii).

[10] *See* telephone conversation discussed in note 5.

[11] *See* NYSE Rule 104.10(6)(i)(A).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41089; File No. SR–OCC–98–14]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Closing Prices in Expiration Processing

February 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 3, 1998, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposal.

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

The purpose of the proposed rule change is to revise OCC Rule 805 with respect to closing prices in expiration processing.

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

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B),

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

and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC's clearing members have requested that expiring options be subject to exercise-by-exception (''ex-by-ex'') processing[3] even if no trading takes place on the trading day before expiration. OCC's clearing members have advised OCC that it would be easiest for them operationally if OCC used the last sale price for the underlying security for the ex-by-ex process rather than remove the option from the process. Accordingly, under the proposed rule change OCC will use the last sale price for the underlying security to determine the closing price even if the price reflects sales that occurred prior to the last trading day before expiration.

In addition, the proposed rule change allows OCC to fix a closing price as it deems appropriate where there is no available last sale price (*e.g.*, because the underlying security is not being traded), where the last sale price is stale (*e.g.*, because there have been no transactions in the underlying security for a lengthy period), or under other similar circumstances. This will allow OCC to use the last reported sales price generally but also will allow OCC to obtain prices from other appropriate sources that provide a basis for determining the market value of the underlying security.

The proposed rule change will also preserve OCC's ability to not fix a closing price in situations where it believes that it cannot derive a correct market price for the underlying security and to remove it from ex-by-ex processing. OCC has informed the Commission that if it fixes a closing price or determines to remove an underlying security from the ex-by-ex process, it will promptly notify its clearing members through an information memorandum or other communication medium so the clearing members can take appropriate action.

Finally, revised Rule 805 will allow OCC to refer to such markets as it designates for use in the ex-by-ex process rather than only referring to the underlying security's primary market. OCC believes that the term primary market may in some cases (now or in the future) be unclear.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act[4] and the rules and regulations thereunder in that it promotes the prompt and accurate clearance and settlement of equity and index options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[5] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with this obligation because it should increase the number of options that are subject to the efficiencies of ex-by-ex processing. As a result, the proposed rule change should facilitate the prompt and accurate clearance and settlement of options transactions by providing promptness and precision in the exercise of in-the-money options if no trading takes place in the underlying security on the day before expiration.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice should immediately increase efficiency in processing expiring options that are in-the-money if no trading takes place in the underlying security on the trading day before expiration.

IV. 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, NW, Washington, DC 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, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–14 and should be submitted by March 22, 1999.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–OCC–98–14) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

[FR Doc. 99–4962 Filed 2–26–99; 8:45 am]

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[2] The Commission has modified the text of the summaries prepared by OCC.

[3] OCC's ex-by-ex procedures presume that a clearing member desires to exercise all options that are in-the-money by a specified threshold. According to OCC, the ex-by-ex processing procedures have been developed solely as an administrative convenience for its clearing members (*See* Interpretation .02 to Rule 805).

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41083; File No. SR–PCX–98–57]

Self-Regulatory Organization; Pacific Exchange, Inc.; Order Approving Proposed Rule Change to Amend Equity Floor Procedure Advice 2–C To Remove an Exception Regarding Trade Reporting Responsibilities

February 22, 1999.

I. Introduction

On November 6, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Equity Floor Procedure Advice 2–C to remove an exception regarding trade reporting responsibilities. The proposed rule change was published for comment in the **Federal Register** on January 15,

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

[2] 17 CFR 240.19b–4.