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 at the Commission's Public Reference Room, located at the above address. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–39 and should be submitted by July 16, 1998.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–16951 Filed 6–24–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40097; File No. SR–PCX–98–04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Identification of Broker-Dealer Orders on the Options Floor

June 17, 1998.

I. Introduction

On January 23, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed rule changes to amend PCX Rule 6.66(c), Rule 6.2, and Rule 6.77 to require the broker-dealer status of an order to be identified by public outcry to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's dissemiated bid or offering price, and to add certain violations of Rule 6.66(c) as amended to the list of those violations that may cause a transaction to be nullified or adjusted. Notice of the proposal was published for comment and appeared in the **Federal Register** on February 24, 1998.[3] Not comment letters were received on the proposal. On June 1, 1998, the PCX filed an amendment to the proposed rule change (''Amendment No. 1'').[4] This order approves the Exchange's proposal. In addition, the Commission hereby publishes notice to solicit comments from interested persons on Amendment No. 1 on the proposal and approves that amendment to an accelerated basis.

II. Description of the Proposal

PCX is proposing to amend its rules on the identification of broker-dealer orders by requiring that, if an order is for an account in which a broker-dealer has an interest, the broker-dealer status of the order must be disclosed to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's disseminated bid or offering price.

On July 21, 1994, the Commission approved an Exchange proposal to adopt new Rule 6.66(c), which currently states: ''Prior to executing an order in which a broker-dealer has an interest, a member must indicate by public outcry that such order is for a broker-dealer if the order is to be executed at the trading crowd's disseminated bid or offering price. This rule applies regardless of whether such broker-dealer is an Exchange member.''[5] The Exchange is now proposing to expand the scope of Rule 6.66(c) by striking the words ''if the order is to be executed at the trading crowd's disseminated bid or offering price'' from the text of Rule 6.66(c). Accordingly, under the amended rule, prior to executing an order in which a broker-dealer has an interest, a Floor Broker would be required to indicate by public outcry that the order is for a broker-dealer.

The proposal is intended to facilitate transactions in option contracts by making the member in the trading crowd and the Order Book Official staff aware of the nature of orders being represented on the Floor, thereby assuring that broker-dealer orders will not be represented inadvertently as public customer orders. In that regard, the Exchange notes that only non-broker-dealer orders are entitled to be placed in the public limit order book and to be given priority over broker-dealer orders under certain circumstances.[6] The Exchange further notes that only non-broker-dealers are entitled to receive a guaranteed minimum of 20 contracts at the disseminated bid or offering price.[7]

The Exchange believes their proposal will make the existing rule less complicated and easier to follow by removing the distinction between broker-dealer orders to be executed at the bid or offering price, and those that are not. In that regard, the Exchange notes that there is no such distinction applicable to Market Maker orders, the identification of which is governed by Rule 6.66(b), which requires Floor Brokers to verbally identify Market Maker orders as such prior to their execution.[8] Thus, removing the subject distinction from Rule 6.66(c) will make the Exchange's option rule disclosure rules uniform, consistent, and easier to follow.

The Exchange is also proposing to amend Rules 6.2 and 6.77 by adding certain violations of Rule 6.66(c) as amended to the list of those violations that may give rise to a circumstance in which two Floor Officials may nullify a transaction or adjust its terms.[9] Specifically, such action could be taken if a Floor Broker failed to identify a broker-dealer order for 20 contracts or less. The reason for the limitation on the number of contracts is that, under Rule 6.86, only non-broker-dealer orders are eligible for a guaranteed execution of 20 contracts at the displayed price. If a Floor Broker does not disclosure that an order for 20 contracts or less is for a broker-dealer (under the proposed rule), the members in the trading crowd may incorrectly assume that the order is for a public customer and provide an execution at the displayed price, without having an opportunity to update their quotes.[10] The Exchange believes that adding this provision is simply a logical extension of the existing Commentary .05(v) to Rule 6.2, which permits two Floor Officials to nullify, or adjust the terms of, any order

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[7] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 39649 (February 11, 1998), 63 FR 9276.

[4] Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX to Ann L. Vlcek, Division of Market Regulation, Commission, dated June 1, 1998.

[5] *See* Exchange Act Release No. 34426 (July 21, 1994), 59 FR 38497 (July 28, 1994) (order approving SR–PSE–92–14).

[6] *See* PCX Rules 6.52(a) and 6.75.

[7] *See* PCX Rule 6.86(a).

[8] Rule 6.66(b) states: ''A Floor Broker holding an order for the account of a Market Maker shall verbally identify the order as such prior to consummating a transaction, and shall, after effecting the trade, supply the name of the Market Maker concerned, by public outcry, upon the request of any member or members in the trading crowd.''

[9] Specifically, the Exchange proposes to move Commentary .05 from Rule 6.2 to Rule 6.77 and renumber it as Commentary .01. The existing subparagraphs will then be relettered and a new subparagraph, (f), added to address violations of Rule 6.66(c) as amended.

[10] *See* PCX Rule 6.37(d) and Rule 6.37, Commentary .05 (Market Makers are required to make a market for, at a minimum, one contract for broker-dealer orders; they must also lower their bids or raise their offers if they do not satisfy an order in its entirety).

executed in violation for Rule 6.86, which states that only non-broker-dealer orders are eligible for a guarantee of up to 20 option contracts at the disseminated market price.

III. Discussion

The Commission finds that the proposed rule changes are 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(b)(5)[11] in that they are designed to facilitate transactions in securities, promote just and equitable principles of trade, and protect investors and the public interest.[12]

Specifically, the Commission believes that the proposal will facilitate transactions in option contracts and afford greater protection of investors and the public interest by making the members in the trading crowd and the Order Book Official staff aware of the nature of the orders being represented on the Floor, thereby assuring that broker-dealer orders will not be represented inadvertently as public customer orders. The Commission notes that only non-broker-dealer orders are entitled to be placed in the Exchange's public limit order book and to be given priority over broker-dealer orders under certain circumstances, and that only non-broker-dealers are entitled to receive a guaranteed minimum of 20 contracts at the disseminated bid or offering price. In view of these existing constraints upon broker-dealer orders and of the added protection afforded public customers by the proposal, the Commission does not believe that requiring all broker-dealer orders to be identified as such public outcry will cause any unnecessary burden upon a member.

The Commission agrees with the Exchange that the proposal will make the existing rule less complicated and easier to follow by removing the distinction between broker-dealer orders to be executed at the bid or offering price, and those that are not. The Commission notes that there is no such distinction applicable to Market Maker orders, which must be verbally identified as such prior to their execution. Thus, the Commission believes that removing the subject distinction from Rule 6.66(c) will facilitate transactions in option contracts by making the Exchange's option order disclosure rules uniform, consistent, and easier to follow.

The Commission also believes that it is appropriate for the Exchange to amend Rule 6.2 by deleting Commentary .05 from that rule, which relates to the member's overall conduct and manner of dress on the options trading floor, and adding it as Commentary .01 to Rule 6.77, which relates to the issue of when bids and offers constitute binding contracts. In view of the proposed amendment of Rule 6.66(c), the Commission believes it appropriate for the Exchange to add a new subparagraph (f) to this Commentary, which would add certain violations of Rule 6.66(c) as amended to the list of those violations that may rise to a circumstance in which two Floor Officials may nullify a transaction or adjust its terms. Specifically, such action could be taken if a Floor Broker failed to identify a broker-dealer order for 20 contracts or less. The Commission agrees with the Exchange that adding this provision is simply a logical extension of the existing Commentary .05(v) of Rule 6.2, which permits two Floor Officials to nullify, or adjust the terms of, any order executed in violation of Rule 6.86, which states that only non-broker-dealer orders are eligible for a guarantee of up to 20 option contracts at the disseminated market price. The Commission believes that enabling Floor Officials to nullify or adjust the terms of a transaction that would violate Rule 6.66(c) as amended will afford greater protection of investors and the public interest.

For the foregoing reasons, the Commission finds that PCX's proposal to require the broker-dealer status of an order to be identified by public outcry to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's disseminated bid or offering price, and to add certain violations of rule 6.66(c) as amended to the list of those violations that may cause a transaction to be nullified or adjusted, is consistent with the requirements of the Act and with the rules and regulations thereunder.

In addition, the Commission finds good cause consistent with the Act for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 1 simply corrects certain typographical errors in the text of the rule proposal and repharases the new subparagraph (f) being added to Commentary .01 of Rule 6.77. The amendment does not substantively change the proposal as originally filed. Accordingly, the Commission approves Amendment No. 1 on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments, including whether the submission is consistent with the Act, concerning Amendment No. 1. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–04 and should be submitted by July 14, 1998.

V. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–PCX 98–04), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–16952 Filed 6–24–98; 8:45 am]

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[11] 15 U.S.C. 78f(b)(5).

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

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst,