the need to avoid unnecessary proliferation of options series.

In addition, the Commission believes that permanent approval of the pilot program is now appropriate given the length of time the pilot program has been in place and its past success. The Commission notes that the Exchanges have not reported any significant problems with the pilot program since its inception nor has the Commission received adverse comments concerning the operation of the pilot program. The Commission notes that the Exchanges and OPRA have represented that sufficient computer processing capacity is available to accommodate the expansion and permanent approval of the 2½ Point Strike Price Pilot Program. The Commission expects the Exchanges to continue to monitor the applicable options activity closely to detect any proliferation of illiquid options series resulting from the narrower strike price intervals and any capacity problems. Further, the Commission expects the Exchanges to promptly remedy such problems should they arise.

In the event the Exchanges propose to expand the program beyond the 200 option classes currently proposed or eliminate the price limits for the 2½ point strike price intervals, the Exchanges must submit a report to the Commission as well as an Exchange Act Rule 19b–4 filing of such proposal. The report should cover the one-year period prior to the date of the proposal and should include data and written analysis on the open interest and trading volume in affected series, and delisted options series (for all strike price intervals) on the selected program option classes. The report also should discuss any capacity problems that may have arisen and any other data relevant to the analysis of the program, including an assessment of the appropriateness of the 2½ point strike price intervals for the options selected by the reporting exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (File Nos. SR–AMEX–98–21; SR–CBOE–98–29; SR–PCX–98–31; and SR–PHLX–98–26), as amended, is approved.

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

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

[17] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–30891 Filed 11–18–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40655; File No. SR–CHX–97–19]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to Proposed Rule Change Establishing Rules Relating to Market-at-the-Close Orders

November 10, 1998.

I. Introduction

On September 12, 1997, the Chicago Stock Exchange, Incorporated (''Exchange'' or ''CHX'') filed with 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 proposed rule change to establish rules and procedures governing market-at-the-close (''MOC'') orders.

The proposed rule change was published for comment in Securities Exchange Act Release No. 39252 (Oct. 17, 1997), 62 FR 55444 (Oct. 24, 1997). The Commission did not receive any comments on the proposal. The Exchange filed with the Commission Amendment No. 1 to the proposed rule change on November 3, 1997,[3] and Amendment No. 2 on September 29, 1998.[4] This order approves the proposed rule change including, on an accelerated basis, Amendment Nos. 1 and 2.

II. Description of the Proposal

The Exchange does not currently maintain formal rules governing the entry or execution of MOC orders on the Exchange.[5] The Exchange therefore seeks to adopt Article XX, Exchange Rule 44, ''Market-at-the-Close Orders,'' to establish formal procedures and better define the rights and obligations of Exchange members and customers with respect to MOC orders. As defined in the proposed rule change, the term ''MOC order'' means a market order which is to be executed in its entirety at the closing price on the primary market of the stock named in the order, and if not so executed, is to be treated as canceled.[6]

The Exchange proposes to adopt procedures that mirror those used by the New York Stock Exchange (''NYSE'') and the American Stock Exchange (''Amex''). The similarity is intended to ensure that MOC orders sent to the Exchange will receive treatment comparable to MOC orders sent to the NYSE and the Amex. The Exchange has expressed concern that unless its MOC rules are functionally equivalent to those of the NYSE and the Amex, market participants may attempt to execute certain MOC orders on the Exchange that would otherwise be prohibited under the MOC rules of the NYSE and the Amex.

In its original form, the Exchange's proposal contemplated procedures and requirements for MOC orders entered on expiration days (*i.e.*, last trading day before monthly expiration of standardized contracts in derivative products and last trading day before expiration of quarterly index options) that differed from those for MOC orders entered on nonexpiration days. Amendment No. 2 eliminates the disparity and proposes a uniform version of the Exchange's MOC rules that would apply to all MOC orders irrespective of the date of entry.

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 revised the proposed rule change by redefining a term used in the rule text. *See* Letter from Charles R. Haywood, Foley & Lardner, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated October 31, 1997 (''Amendment No. 1'').

[4] Amendment No. 2 eliminates the proposed requirements that the Exchange publish an independent list of MOC order imbalances that occur on the Exchange. In addition, Amendment No. 2 revises the proposal to establish identical procedures for MOC orders entered on expiration and non-expiration days. Finally, Amendment No. 2 provides that MOC orders may be entered on the Exchange after 2:40 P.M., Central Standard Time, only if the specialist determines that such MOC order could have been entered on the primary market. *See* Letter from David T. Rusoff, Foley & Lardner, to Michael Loftus, Attorney, Division of Market Regulation, Commission, dated September 28, 1998 (''Amendment No. 2'').

[5] However, the Exchange does not prohibit the use of MOC orders. Generally, an Exchange specialist will voluntarily accept an MOC order if the specialist believes such order could be accepted on the New York Stock Exchange. Telephone conversation between David T. Rusoff, Attorney, Foley and Lardner; Daniel J. Liberti, Attorney, Exchange; and Michael L. Loftus, Attorney, Division of Market Regulation, Commission (October 16, 1997).

[6] The Exchange's proposed MOC rule and procedures would apply to all securities listed on the Exchange (whether by exclusive listing or dual listing) and all securities traded on the Exchange pursuant to unlisted trading privileges. Electronic mail message from David T. Tusoff, Attorney, Foley and Lardner, to Michael L. Loftus, Attorney, Division of Market Regulation, Commission (November 9, 1998).

Under the amended proposal, no MOC order may be entered after 2:40 P.M., Central Standard Time, in any stock. Floor brokers representing MOC orders must indicate their irrevocable MOC interest to the specialist by 2:40 P.M. After 2:40 P.M., MOC orders may generally be entered only if the specialist determines that such MOC order could have been entered on the primary market. In order for specialists to determine whether MOC orders could have been entered on the primary market, specialist must monitor the publication of MOC order imbalances on the primary market through third-party vendors. If a specialist accepts an MOC order after 2:40 P.M., the specialist is required to document evidence that such MOC order could have been entered on the primary market.

Notwithstanding the above, the proposal prohibits the use of MOC orders entered after 2:40 P.M. for the liquidation of positions relating to a strategy involving any stock index options. The proposal further provides that no MOC order in any stock may be canceled or reduced in size after 2:40 P.M. Cancellations to correct a legitimate error, however, will continue to be permitted after 2:40 P.M.

An Exchange specialist only will be obligated to accept and guarantee execution of those MOC orders that are of a size and type that a specialist would otherwise be required to accept and guarantee execution of, if the orders did not have an MOC designation.[7]

The proposed rule change specifies the manner in which an Exchange specialist is required to executive MOC orders. When there is an imbalance between the buy and sell MOC orders on the Exchange, the specialist shall, at the close of the Primary Trading Sessions[8] on that day, execute the imbalance for its own account at the closing price on the primary market of the stock. The specialist shall then stop the remaining buy and sell MOC orders against each other and pair them off at the closing price on the primary market of the stock. The ''pair off'' transaction shall be reported to the consolidated last sale reporting system as ''stopped stock.'' Where the aggregate size of the buy MOC orders on the Exchange equals the aggregate size of the sell MOC orders on the Exchange, the buy and sell MOC orders shall be stopped against each other and paired off at the closing price on the primary market of the stock. The transaction shall be reported to the consolidated last sale reporting system as ''stopped stock.''

Finally, the proposed rule change would include Interpretations and Policies, Section .01, ''G Orders,'' as part of the new Exchange Rule 44. Under the provision, proprietary orders represented pursuant to Section 11(a)(1)(G) of the Act[9] (''G Orders'') must be announced as such[10] and yield priority, parity, and precedence to any order which is for the account of a person who is not a member, member organization, or associated person thereof. Market orders to sell short at-the-close represented as G Orders must yield priority, parity, and precedence to limit orders not represented pursuant to Section 11(a)(1)(G) of the Act. For example, in executing paired-off MOC orders, a G Order to sell short at-the-market would yield to sell orders limited at the closing price that are not represented as G Orders. This will be the policy even if the G Order to sell short at-the-market theoretically could have been executed at a better price (and still satisfy the short sale rule in terms of a ''plus'' or ''zero plus'' tick) had their not been a pair-off on the transaction. This would not be applicable if the order was a market order to sell ''long'' or a market order to buy.

III. Discussion

For the reasons discussed below, 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 the requirements of Section 6(b).[11] Specifically, the Commission believes the proposed rule change is consistent with the Section 6(b)(5) requirements that the rules of an exchange market 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 a national market system, and, in general, to protect investors and the public interest.[12]

MOC procedures were first developed for expiration days because many trading strategies that involve stock index derivatives require the unwinding of positions in the component stocks at the closing price on expiration days. The Commission recognizes, however, that institutional investors have developed an increasing number of composite-asset trading techniques and strategies that call for a single closing price on a daily basis, not just expiration days. As a result, there is a demonstrated interest in establishing greater price certainty at the close of trading each day.

Moreover, the national securities exchanges and broker-dealers have developed products to facilitate the trading of portfolios of securities. The Exchange's proposal represents an effort to accommodate the increased use of index-related trading by customers and member firms, and provide additional flexibility in order execution. The proposal also constitutes an attempt to minimize the excess market volatility that may emanate from the liquidation of stock positions related to trading strategies involving index derivative products. The Commission believes, based in part on the experience of other exchange markets, that MOC procedures may help reduce market volatility and may result in more orderly markets at the close of trading, especially on expiration days.

The proposal requires market participants to enter their MOC orders by 2:40 P.M., Central Standard Time, every trading day. In addition, floor brokers representing MOC orders must indicate their irrevocable MOC interest to the specialist by 2:40 P.M. every trading day. No MOC order in any stock may be canceled or reduced in size after 2:40 P.M. The Commission believes the 2:40 P.M. deadline for the entry of MOC orders on all trading days will allow Exchange specialists to make timely and reliable assessments of MOC order flow and evaluate the potential impact on closing prices. The Commission notes that because the MOC orders will be irrevocable, and because of other restrictions on MOC order entry after

[7] The execution parameters governing the Exchange's Guaranteed Execution System (''BEST System'') require a specialist to accept and guarantee execution on all agency orders in Dual Trading System Issues from 100 up to and including 2,099 shares. Therefore, an Exchange specialist likewise would be required to accept and guarantee execution of an MOC order from 100 up to and including 2,099 shares. *See* Article XX, Exchange Rule 37(a)(1).

[8] The term ''Primary Trading Session'' is defined in Article IX, Exchange Rule 10(b), as being (i) the same hours the security is traded on its primary market, if the Exchange is not the primary market for such security (however, no later than 3:00 P.M. Central Standard Time for a security primarily listed on the Pacific Exchange), or (ii) from 8:30 A.M. to 3:00 P.M., Central Standard Time, Monday through Friday, if the Exchange is the primary market for such security.

[9] 15 U.S.C. 78k(a)(1)(G).

[10] In addition, the Exchange currently requires that orders to be executed pursuant to Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) must bear an identifying notation that will enable the executing member to disclose to other members that the order is subject to such provisions. *See* Article XX, Exchange Rule 24, ''Record of Orders,'' Interpretations and Policies, .01.

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

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

2:40 P.M., MOC orders entered should reflect actual investor interest. In addition, because the MOC order entry deadline is twenty minutes in advance of the closing, the procedures should ameliorate the problem of significant shifts in MOC imbalances near the close of trading. The Commission therefore believes the 2:40 P.M. deadline for the entry of MOC orders should help effectuate more orderly closings on a daily basis and assist Exchange specialists in obtaining an accurate view of the buying and selling in MOC orders.

The Exchange's proposal states that no MOC order may be entered on the Exchange after 2:40 P.M. in any stock unless the specialist determines that such MOC order could have been entered on the primary market (*i.e.*, the NYSE or the Amex). Therefore, the MOC rules and procedures of the primary market will control a specialist's determination of whether an MOC order could be entered on the primary market. Consistent with the MOC rules and procedures of the primary markets, an MOC order generally may be entered on the Exchange after 2:40 P.M., if the primary market has disseminated notice of an MOC order imbalance for that particular stock, and the MOC order to be entered on the Exchange would serve to offset that disseminated MOC order imbalance (*e.g.*, the MOC order to be entered is on the contra-side of the imbalance).

Specifically, as soon as practicable after 3:40 P.M., Eastern Standard Time (2:40 P.M., Central Standard Time), every trading day, the NYSE (a ''primary market'') disseminates notice of MOC order imbalances of 50,000 shares or more in all NYSE-listed stocks.[13] The NYSE also disseminates MOC order imbalances of less than 50,000 shares if permission is obtained from an NYSE Floor Official,[14] or if the underlying stock was the subject of an informational imbalance dissemination made between 3:00 and 3:40 P.M., Eastern Standard Time.[15] It should be noted that the MOC order imbalances disseminated by the NYSE include ''marketable'' limit-at-the-close (''LOC'') orders.[16] The NYSE also requires that an additional dissemination be made at 3:50 P.M., Eastern Standard Time, for any stock which was the subject of an imbalance dissemination at 3:40 P.M. Specifically, if at 3:50 P.M. the MOC order imbalance remains 50,000 shares or more, the 3:50 P.M. update must include the size and side of the imbalance.[17] If at 3:50 P.M. the MOC order imbalance is less than 50,000 shares, the 3:50 P.M. update must include a ''no imbalance'' message, or alternatively the size and side of the imbalance may be disseminated with Floor Official approval.

In addition, as soon as practicable after 3:40 P.M., Eastern Standard Time (2:40 P.M., Central Standard Time), every trading day, the Amex (a ''primary market'') disseminates notice of MOC order imbalances of 25,000 shares or more in all Amex-listed stocks, other than those that trade in units of less than 100 shares.[18] In certain instances, the Amex permits the dissemination of MOC order imbalances of less than 25,000 shares if permission is obtained from an Amex Floor Official.[19] Unlike the MOC procedures of the NYSE, the MOC order imbalances disseminated by the Amex do not include marketable LOC orders, and the Amex does not disseminate a supplementary update at 3:50 P.M.

To determine whether MOC orders may be entered on the primary market, the proposal requires specialists to monitor the publication of MOC order imbalances on the primary market through third-party vendors. For example, if through Bloomberg the NYSE disseminated notice of an MOC order imbalance of 100,000 shares for stock XYZ on the buy side, the Exchange specialist in stock XYZ could accept MOC orders on the sell side after 2:40 P.M., provided the MOC orders were for less than 100,000 shares. The Commission believes it is reasonable for the Exchange to require its specialists to monitor MOC order imbalances through third party vendors (*e.g.*, Bloomberg, Dow Jones, Reuters). An Exchange specialist may accept MOC orders on the contra-side of a disseminated MOC order imbalance only during a narrow period of time. Therefore, it is critical that Exchange specialists be immediately informed whether a particular stock is the subject of an MOC order imbalance. The Commission believes the proposal will ensure that Exchange specialists stay abreast of MOC order imbalances in a timely manner and accept MOC orders in conformance with the Exchange's rules. Furthermore, if an Exchange specialist does accept an MOC order after 2:40 P.M., the specialist must document evidence indicating that such MOC order could have been entered on the primary market.

While the Commission believes it is reasonable for the Exchange to restrict the entry of MOC orders after 2:40 P.M., the Commission also believes the Exchange's proposal makes adequate provision for the entry of certain corrective orders after the 2:40 P.M., deadline. In particular, the proposal allows specialists to accept the cancellation of an MOC order after 2:40 P.M. if the cancellation was done to correct a legitimate error. The Commission believes this measure will provide market participants with the flexibility necessary to rectify bona fide errors involving MOC orders.

The Commission also believes it is reasonable for the Exchange to prohibit the use of MOC orders entered after 2:40 P.M. for the liquidation of positions relating to a strategy involving any stock index options. The proposal restricts the entry of MOC orders after 2:40 P.M. to instances where there is an MOC order imbalance on the primary market. This restriction will help to ensure that the 2:40 P.M. deadline is concrete and enforceable and that only a limited class of orders will be excepted from the deadline. The Commission believes the Exchange has properly excluded from the excepted class any MOC order that relates to a strategy involving index options. The Commission notes that MOC procedures are principally

[13] *See* NYSE Rule 116, Supplementary Material .40, ''`Stopping' stock on market-at-the-close orders.'' NYSE Information Memo No. 98–20 (June 22, 1998) also provides information pertaining to MOC orders entered on the NYSE. The Commission recently approved revisions to the NYSE procedures that govern MOC orders. *See* Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 33975 (June 22, 1998).

[14] This provision permits, but does not require, the publication of an MOC order imbalance which, although less than 50,000 shares, may be significantly greater than average daily volume in a particular stock.

[15] Between 3:00 and 3:40 P.M., imbalances of any size may be disseminated with Floor Official approval. These disseminations are informational only and do not limit MOC order entry before 3:40 P.M.

[16] This means that LOC orders to buy at a higher price than the last sale price would be included with the buy MOC orders, and LOC orders to sell at a lower price than the last sale price would be included with the sell MOC orders. LOC orders with a limit equal to the last sale price would not be included in the disseminated imbalance. LOC orders are entered for execution at the closing price, provided the closing price is at or within the limit specified.

[17] If the 3:50 P.M. imbalance dissemination reverses the 3:40 P.M. imbalance dissemination (*i.e.*, MOC order imbalance switches from buy side to sell side, and vice versa), only MOC orders which offset the 3:50 P.M. imbalance would be permitted to be entered thereafter.

[18] *See* Amex Rule 109, ''`Stopping' Stock.'' The Commission approved amendments to the Amex rules and procedures governing MOC orders on June 24, 1998. *See* Securities Exchange Act Release No. 40123 (June 24, 1998), 63 FR 36280 (July 2, 1998).

[19] The Amex permits the dissemination of MOC order imbalances of less than 25,000 shares if the specialist (i) anticipates that the execution price of the MOC orders on the book will exceed the price change parameters of Amex Rule 154, Commentary .08, or (ii) believes that an order imbalance should otherwise be planned.

intended to reduce volatility at the close. The Commission believes the ban on the use of index options-related MOC orders after 2:40 P.M. will serve to reduce volatility at the close and in doing so will create greater price certainty.

The Commission believes it is appropriate for the Exchange to require all proprietary MOC orders that are represented pursuant to Section 11(a)(1)(G) of the Act,[20] including market orders to sell short at-the-close, to yield priority, parity, and precedence to any non-member MOC order. This requirement is consistent with Section 11(a) of the Act [21] in that it will help ensure the primacy of non-member MOC orders. Furthermore, because G Orders must be marked to indicate their status and must be disclosed to the Exchange's trading floor, the Commission is confident that Exchange specialists will execute members' proprietary MOC orders in accordance with the priority principles set forth in Section 11(a) of the Act and the rules thereunder.

As previously mentioned, Amendment No. 2 eliminates the requirement that the Exchange independently publish MOC order imbalances that occur on the Exchange. The Commission believes this revision is appropriate for several reasons. First, the public dissemination of multiple MOC order imbalances for the same stock by the primary market and the Exchange could prove confusing. Next, the modification remedies the anomalous situation that might arise if the Exchange's MOC order imbalance for a particular stock differed from the primary market's MOC order imbalance, and MOC orders could have been accepted on the Exchange after 2:40 P.M. but not the primary market, and vice versa. Finally, the Exchange has represented that a substantial MOC order imbalance (*i.e.*, 50,000 shares or more) has never occurred on the Exchange. Furthermore, because Exchange specialists only are obligated to accept and guarantee execution of relatively small MOC orders (100–2,099 shares), the specialist may decline to accept and guarantee execution of large MOC orders that would cause a substantial MOC order imbalance. The Commission believes that in the aggregate, these factors outweigh the benefits of publicly disseminating MOC order imbalances.[22]

The Exchange's proposal is substantially similar to the MOC rules currently in place at the NYSE,[23] the Amex,[24] and the Boston Stock Exchange (''BSE'').[25] The similarity between the proposal and the MOC rules maintained by other national securities exchange will ensure that the Exchange does not become a haven for MOC orders that are prohibited on the other exchange markets. In addition, the standardization of rules will result in Exchange MOC orders being treated the same as MOC orders sent to the NYSE, Amex, and BSE.

The Commission understands that in the highly competitive markets of today, it is possible that a regional exchange which trades NYSE- and Amex-listed stocks, but does not have comparable closing procedures, could be utilized by market participants to enter MOC orders prohibited on such primary markets. Although the Commission has no reason to believe that the Exchange has become a significant alternative market to enter otherwise prohibited MOC orders, the Commission agrees with the Exchange that if this possibility were realized, it could have a negative impact on the fairness and orderliness of the national market system. Accordingly, the Commission believes that it is reasonable for the Exchange to adopt procedures for the handling of MOC orders that mirror those of the NYSE, Amex, and BSE. The adoption of consistent rules and procedures will help ensure the equal treatment of MOC orders among exchange markets and, in the event of unusual market conditions, offer the Exchange the same benefits in terms of potentially reducing volatility.

The Commission notes that prior to receiving parmanent approval for their MOC rules, the NYSE, Amex, and the BSE were required to first implement their MOC rules on a pilot basis. However, in consideration of the demonstrated benefits of MOC rules and procedures, the Commission believes there is no compelling reason to approve the Exchange's proposal on a pilot basis rather than permanently. The Commission also is confident that the Exchange will surveil the closing procedures to ensure against potential manipulations of the close through MOC transactions.

Finally, the Commission believes the structure of proposed Exchange Rule 44 will enable members and other market participants to locate and apply the Exchange's MOC guidelines without difficulty. Some exchange markets maintain their MOC rules and procedures in several sources, including rule books and informational memos to members. In contrast to such a decentralized approach, the Exchange's proposal presents all relevant information in one comprehensive rule. Furthermore, because the MOC procedures for expiration days are the same as those for non-expiration days, Exchange members and member organizations will follow identical procedures at the close on all trading days.

The Commission finds good cause for approving proposed Amendment Nos. 1 and 2 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Amendment No. 1 revised the proposed rule change by redefining a term used in the rule text. The modification was intended to ensure that the proposed rule change remained consistent with current exchange market practice and did not include incorrect and obsolete terminology. The Commission notes that the modification proposed by Amendment No. 1 has been superseded by the revisions proposed by Amendment No. 2 and that the approval of Amendment No. 1 therefore will have no import on the proposed rule change.

Amendment No. 2 modifies the proposed rule change by eliminating the requirement that the Exchange independently publish MOC order imbalances that occur on the Exchange. Instead, the Exchange will rely on the primary market's dissemination of MOC order imbalances. Amendment No. 2 also specifies that Exchange specialists may accept MOC orders after 2:40 P.M. only if such orders could have been entered on the primary market. As a result, Amendment No. 2 addresses the anomalous situation that might arise if the Exchange's MOC order imbalance differed from the primary market's MOC order imbalance, and MOC orders could have been accepted on the Exchange after 2:40 P.M. but not the primary market, and vice versa. The Commission believes Amendment No. 2 makes the proposal consistent with the Exchange's goal of establishing MOC procedures that are uniform with those of the primary markets. Furthermore, the use

[20] 15 U.S.C. 78k(a)(1)(G).

[21] 15 U.S.C. 78k(a).

[22] The Commission previously has indicated its view that the dissemination of MOC order imbalances allows specialists to determine the buying and selling interest in MOC orders and, if there is a substantial imbalance on one side of the market, provides the investing public with timely and reliable notice of the imbalance and with an opportunity to make appropriate investment decisions in response. *See e.g.*, Securities Exchange Act Release No. 40123 (June 24, 1998), 63 FR 36280 (July 2, 1998).

[23] *See supra* note 13.

[24] *See supra* note 18.

[25] *See* BSE Rules of Board, Chapter II, Section 22, ''Procedures for Handling Market-On-Close (''MOC'') Orders.'' The Commission permanently approved the BSE's rules and procedures governing MOC orders on October 9, 1998. *See* Securities Exchange Act Release No. 40538 (Oct. 9, 1998), 63 FR 55661 (Oct. 16, 1998).

of the primary market's MOC order imbalance will simplify MOC procedures for market participants and specialists, and will eliminate possible mix-ups that might have occurred due to the dissemination of multiple MOC order imbalances for the same securities. Finally Amendment No. 2 revises the proposal to establish identical procedures for MOC orders entered on expiration and non-expiration days. The Commission believes the adoption of uniform MOC procedures that do not vary from day-to-day will create certainty among market participants and will eliminate the confusion that may have arisen from procedural requirements that differed for expiration and non-expiration days. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b) of the Act,[26] to approve Amendment Nos. 1 and 2 to the proposed rule change 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 to the proposed rule change, including whether the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the Act. 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 submissions, 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 persons, 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 Exchange. All submissions should refer to File No. SR–CHX–97–19 and should be submitted by December 21, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–CHX–97–19), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–30950 Filed 11–18–98; 8:45 am]

BILLING CODE 8010–01–M

[26] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40676; File No. SR–NASD–98–81]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Application of the Corporate Financing Rule to Certain Offerings by Charitable Organizations

November 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 29, 1998, NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. 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

NASD Regulation is proposing to amend Rule 2710 of the National Association of Securities Dealers, Inc. (''NASD'' of ''Association'') to exempt certain offerings by charitable organizations from the pre-offering review requirements of the Corporate Financing Rule. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

2710. Corporate Financing Rule—Underwriting Terms and Arrangements

(a) No change.

(b) Filing Requirements

(1)–(6) No change.

(7) Offerings Exempt from Filing

Notwithstanding the provisions of subparagraph (1) above, documents and information related to the following public offerings need not be filed with the Association for review, unless subject to the provisions of Rule 2720. However, it shall be deemed a violation of this Rule or Rule 2810, for a member to participate in any way in such public offerings if the underwriting or other arrangements in connection with the offering are not in compliance with this Rule or Rule 2810, as applicable:

(A)–(C) No change.

(D) securities offered pursuant to a redemption standby ''firm commitment'' underwriting arrangement registered with the Commission on Forms S–3, F–3 or F–10 (only with respect to Canadian issuers); [and]

(E) financing instrument-backed securities which are rated by a nationally recognized statistical rating organization in one of its four (4) highest generic rating categories*; and*

(F) offerings of securities by a church or other charitable institution that is exempt from SEC registration pursuant to Section 3(a)(4) of the Securities Act.

(8) No change.

(9) Offerings Required to be Filed

Documents and information relating to all other public offerings including, but not limited to, the following must be filed with the Association for review:

(A)–(E) No change.

(F) securities offered by a bank, savings and loan association, [church or other charitable institution,] or common carrier even though such offering may be exempt from registration with the Commission;

(G)–(H) No change.

* * * * *

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

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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

(a) Purpose

When the Act was amended in the early 1980s to require that most SEC-registered broker/dealers be members of the NASD, the NASD regulated for the

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

[2] 17 CFR 240.19b–4.