XIV. The SROs shall notify the common members of this Agreement by means of a uniform joint notice approved by the Council.

XV. This Agreement may be amended in writing duly approved by each SRO.

XVI. Any of the SROs may manifest its intention to cancel its participation in this Agreement at any time upon the giving to the Council of written notice thereof at least 90 calendar days prior to such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, those common members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above, the petitioning SRO shall retain all its rights, privileges, duties and obligations hereunder.

XVII. The cancellation of its participation in this Agreement by any SRO shall not terminate this Agreement as to the SROs which remain participants. This Agreement will only terminate when the then participants therein shall notify the Commission, in writing, that they will terminate the Agreement. Such notice shall be given at least six months prior to the intended date of termination.

Limitation of Liability

No SRO nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, efforts or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the SROs and caused by the willful misconduct of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the SROs or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

Relief from Responsibility

Pursuant to Section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–2 promulgated pursuant thereto, the SROs join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those SROs which are from time to time participants in this Agreement which are not the DOEA as to a common member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

In Witness Whereof, the SROs hereto have executed this Agreement as of the date and year first above written.

Exhibit A—Designated Option Examining Authorities

American Stock Exchange, LLC

Chicago Board Options Exchange, Inc.

National Association of Securities Dealers, Inc.

New York Stock Exchange, Inc.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the amended plan. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the amended plan that are filed with the Commission, and all written communications relating to the amended plan 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. Copies of such filing will also be available for inspection and copying at the principal office of each of the SRO participants. All submissions should refer to File No. S7–966 and should be submitted by June 21, 2000.

V. Discussion

The Commission continues to believe that the proposed plan is an achievement in cooperation among the SRO participants, and will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related sales practice matters that would otherwise be performed by multiple SROs. The plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the plan, the plan promotes, and will continue to promote, investor protection.

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective.[11] In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add the ISE as an SRO participant. By approving it today, the amendment can be implemented prior to the ISE beginning its operations. In addition, the original plan was published for comment, and no comments were received.[12] The Commission does not believe that the amendment raises any new regulatory issues.

This order gives effect to the amended plan submitted to the Commission that is contained in File No. S7–966. The SRO participants shall notify all members affected by the amended plan of their rights and obligations under the amended plan.

It is therefore ordered, pursuant to Sections 17(d) and 11A(a)(3)(B) of the Act, that the amended plan of the Amex, the CBOE, the CHX, the ISE, the NASD, the NYSE, the PCX, and the Phlx filed pursuant to Rule 17d–2 is approved.

It is further ordered that those SRO participants that are not the DOEA as to a particular member are relieved of those responsibilities allocated to the member's DOEA under the amended plan.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13530 Filed 5–30–00; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 240.17d–2(c).

[12] *See supra,* note 10.

[13] 17 CFR 200.30–3(a)(34)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42815, File No. 4–431]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Granting Approval of Plan Allocating Regulatory Responsibility; International Securities Exchange LLC and National Association of Securities Dealers, Inc.

May 23, 2000.

Notice is hereby given that the Securities and Exchange Commission (''SEC or Commission'') has issued an Order, pursuant to Sections 17(d)[1] and 11A(a)(3)(B)[2] of the Securities Exchange Act of 1934 (''Act''), granting approval of the plan, as amended, for allocating regulatory responsibility filed pursuant

[1] 15 U.S.C. 78q(d).

[2] 15 U.S.C. 78k–1(a)(3)(B).

to Rule 17d–2 of the Act,[3] by the International Securities Exchange LLC (''ISE'') and the National Association of Securities Dealer, Inc. (''NASD'').

Accordingly, the NASD shall assume, in addition to the regulatory responsibilities it already has under the Act, the regulatory responsibilities allocated to it under the plan, as amended. At the same time, the ISE is relieved of those regulatory responsibilities allocated to the NASD.

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every national securities exchange and registered securities association (''SRO'') to examine for, and enforce, compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or 19(g)(2) [5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). This regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[6] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for, and enforce, compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 [7] and Rule 17d–2 under the Act. Rule 17d–1, adopted on April 20, 1976,[8] authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals only with an SRO's obligations to enforce broker-dealers' compliance with the financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices, and trading activities and practices.

To address regulatory duplication in these other areas, on October 28, 1976, the Commission adopted rule 17d–2 under the Act.[9] This rule permits SROs to propose joint plans allocating regulatory responsibilities with respect to common members. Under paragraph (c) of rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system, and in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

On April 19, 2000, the Commission published notice of the filing by the ISE and the NASD of a joint plan allocating regulatory responsibility for common members.[10] No comments were received. On May 1, the parties filed a technical amendment to the plan.[11] The amended plan is intended to reduce regulatory duplication for firms that are common members of the ISE and the NASD. Included in the plan is an attachment (''ISE Certification'') that clearly delineates regulatory responsibilities with respect to ISE rules. The ISE Certification lists every ISE rule that, under the plan, the NASD would bear responsibility for overseeing and enforcing with respect to common members.

II. Discussion

The Commission finds that the proposed plan is consistent with the factors set forth in Section 17(d) of the Act and Rule 17d–2(c), in that the proposed plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among self-regulatory organizations, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed plan is an achievement in cooperation between the ISE and the NASD, which will reduce unnecessary regulatory duplication by allocating to the NASD certain responsibilities for common members that would otherwise be performed by both SROs.[12] The proposed plan promotes efficiency by reducing costs to common members. Furthermore, because the ISE and the NASD will coordinate their regulatory functions in accordance with the plan, the plan will promote investor protection.

III. Conclusion

This order gives effect to the amended plan filed with the Commission that is contained in File No. 4–431. The parties to the plan shall notify all members affected by the amended plan of their rights and obligations under the amended plan.

It is therefore ordered, pursuant to Sections 17(d) and 11A(a)(3)(B) of the Act, that the plan of the ISE and the NASD, as amended, filed pursuant to Rule 17d–2 is approved.

It is therefore ordered that the ISE is relieved of those responsibilities allocated to the NASD under the plan, as amended.

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[3] 17 CFR 240.17d–2.

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78s(g)(2).

[6] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[7] 17 CFR 240.17d–1.

[8] Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18809 (May 3, 1976).

[9] Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (November 8, 1976).

[10] Securities Exchange Act Release No. 42668 (April 11, 2000), 65 FR 21048 (April 19, 2000).

[11] *See* Letter from Sharon Zackula, Assistant General Counsel, NASD Regulation, to Belinda Blaine, Associate Director, Division of Market Regulation, Commission, dated May 1, 2000 (''Amendment No. 1''). Amendment No. 1 makes non-substantive changes to the provisions of the plan regarding Advertising Materials and Regulatory Responsibility.

[12] The ISE has further reduced regulatory duplication by becoming a participant in the plan allocating regulatory responsibility concerning options-related sales practice matters, filed by the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. in 1983 (the ''Options 17d–2 Plan'') *See* Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983). On May 23, 2000, the Commission approved an amendment to the Options 17d–2 plan, which allows ISE to become a participant in the plan. *See* Securities Exchange Act Release No. 42816. The plan that is the subject of this approval order specifically excludes any obligation or responsibility by the NASD to examine common members for compliance with ISE rules for which the regulatory responsibility is allocated to an SRO under the Options Rule 17d–2 plan.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13531 Filed 5–30–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42810; File No. SR–PCX–99–17]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change Permitting Floor Brokers To Represent Orders With a Ticket-to-Follow

May 23, 2000.

I. Introduction

On June 1, 1999, the Pacific Exchange, Inc. (''Exchange'' or ''PCX'') 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 proposed rule change seeking to amend its rules on options trading to permit Floor Brokers to immediately represent intra-floor telephonic orders in the trading crowd, with a written order ticket immediately to follow. Amendment No. 1 to the proposal was submitted on November 12, 1999.[3] Notice of the proposed rule change, including Amendment No. 1, appeared in the **Federal Register** on December 8, 1999.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

Options Floor Brokers currently are not permitted to represent orders they receive over the telephone unless and until they have prepared, from outside the trading crowd, a written, time-stamped order ticket.[5] The Exchange now proposes to adopt new PCX Rule 6.2(h)(4)(C), which will permit a floor Broker in a trading crowd who receives an order from a Member or Member Firm representative located on the Trading Floor to represent that order immediately in the trading crowd, provided that: (i) an order ticket is prepared and time stamped in the member firm booth before the order is transmitted telephonically to the Floor Broker in the trading crowd; and (ii) a written, time-stamped order ticket for the order must be taken immediately to the Floor Broker in the trading crowd.[6]

The Exchange also proposes to amend PCX Rule 6.2(h)(4)(B) to eliminate the requirement that Floor Brokers who receive telephonic orders while in the trading crowd must step outside of the trading crowd, write up an order ticket and time-stamp it before representing the order in the crowd.[7] In addition, the Exchange proposes to add new section (d) to PCX Rule 6.67, which provides that a Floor Broker may represent a telephonic order, with the ticket to follow, as provided in PCX Rule 6.2(h)(4)(C). Further, the Exchange proposes to modify PCX Rule 6.85 by providing that PCX Rule 6.2(h)(4)(C) is an exception to the general rule that when a Floor Broker receives a verbal order form a Market Maker, or when a Floor Broker is requested by a Market Maker to alter an order in his possession in any way, the Floor Broker shall immediately prepare an order ticket from outside the trading crowd and time-stamp it. Accordingly, Floor Brokers who receive intra-floor telephonic orders from Market Makers will be permitted to represent those orders immediately, with the ticket immediately to follow.[8]

Under Options Floor Procedure Advice F–5 (''OFPA F–5''), hand signals may be used to increase or decrease the size of an order, to change the order's limit, to cancel an order or to activate a market order, as long as the cancellation or change to the order is ''relayed to the Floor Broker in a time-stamped, written form immediately thereafter.'' The Exchange is proposing, as a matter of consistency, to eliminate the requirement from OFPA F–5 that changes to an order must be documented in writing outside of the crowd and the ticket time-stamped, before the revised order may be represented.

III. Discussion

Section 6(b)(5)[9] of the Act requires that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.[10] Section 11A(a)(1)(C)(i)[11] of the Act states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the economically efficient execution of securities transactions. Section 11A(a)(1)(C)(ii)[12] states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers. For the reasons set forth 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, the requirements of Section 6(b)(5).[13] Further, the Commission believes that the proposed rule change is consistent with the goals of Section 11A(a)(1)(C).[14]

The Commission believes that the proposal should serve to remove impediments to and perfect the mechanism of a free and open market by reducing the amount of time before telephonic orders may be represented in the trading crowd without compromising the Exchange's audit trail. In this regard, the Commission notes that an order ticket must be prepared and time stamped in the member firm booth before the order is transmitted telephonically to the Floor Broker in the trading crowd. The Commission believes that requiring floor members to prepare a written, time-stamped order ticket before the order is transmitted to the crowd is consistent with the Exchange's audit trail requirements. Further, the Commission believes that this requirement should enable the Exchange to conduct adequate surveillance for market manipulation

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[13] 17 CFR 200.30–3(a)(34).

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

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael Pierson, Director, Regulatory Policy, PCX, to John Roeser, Attorney, Division of Market Regulation, Commission, dated November 10, 1999 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 42188 (December 1, 1999), 64 FR 68714.

[5] *See* Securities Exchange Act Release No. 42557 (Mar. 21, 2000), 65 FR 16680 (Mar. 29, 2000) (SR–PCX–98–30) (order approving PCX Rule 6.2(h)(4)(B), ''Floor Brokers who receive telephonic orders while in the trading crowd must step outside of the crowd, write up an order ticket and time stamp it before representing the order in the crowd''); *See also* PCX Rule 6.85, Com. .03 (''when a Floor Broker receives a verbal order from a Market Maker, or when a Floor Broker is requested by a Market Maker to alter an order in his possession in any way, the Floor Broker shall immediately prepare an order ticket from outside the trading crowd and time stamp it'').

[6] *See* Amendment No. 1, *supra* note 3.

[7] *See supra* note 5.

[8] Under PCX Rule 6.2(h)(4), Floor Brokers are not permitted to communicate directly with persons located off the Trading Floor. *See supra* note 5.

[9] 15 U.S.C. 78f(b)(5).

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

[11] 15 U.S.C. 78k–1(a)(1)(C)(i).

[12] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78k–1(a)(1)(C)(i).