certain market makers to send proprietary order flow to the ISE in options outside of their assigned groups of options (''bins''.[4] In particular, many market makers do not have the facilities to establish a ''Chinese Wall'', which requires physical separation of functions (generally on separate floors), between their proprietary traders and individuals performing ISE market making activities. The ISE notes that several of its market maker members do a significant amount of proprietary trading.

The ISE represents that the purpose of the proposed rule change is to ease ISE Rule 810 to allow members to conduct proprietary trading in the same physical space as their market making activities, but only: (i) in options that are not within their market making assignments or (ii) in options which, pursuant to regulatory requirements, the member is prohibited from making markets. This latter provision is intended to apply to market makers that are specialists in the underlying stock on the New York Stock Exchange, Inc. (''NYSE''), whose rules limit the options trading of specialists and affiliated firms to ''hedging activities,'' thus prohibiting them from making markets in options.[5] In addition, the proposed rule change would permit only proprietary trading without the Chinese Wall and would not permit the market maker to enter agency orders (except with respect to proprietary orders for its affiliates) without complying with the full restrictions of ISE Rule 810.

In these narrow circumstances, the Exchange does not believe that there is the potential for the type of harm against which ISE Rule 810 is intended to protect. Since the member will not be making markets in the stocks in which they are engaging in proprietary trading, there is no opportunity for using the dual roles either to manipulate the market or take unfair advantage of market information. Thus, the ISE believes that relaxing this rule will help attract proprietary order flow to the ISE, without any adverse regulatory implications.

[4] The ISE assigns market makers to bins of options. There are 10 bins, and each bin has one Primary Market Maker (''PMM'') and up to 10 Competitive Market Makers (CMM) assigned to each.

[5] *See* NYSE Rule 105. This applies solely to CMMs. Because CMMs are required to provide continuous quotes in only 60 percent of the options in a bin, it is possible that a CMM could be assigned a bin in which it is not permitted to make markets in certain options classes. Such a CMM simply would not quote in these ''restricted'' options. PMMs must provide continuous quotes in all options in a bin and thus were bit assigned bins where these regulatory restrictions apply.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5)[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange did not solicit or receive written comments on the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such long period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 20549–0609. 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 at the Commission's Public Reference Room. 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–ISE–00–09 and should be submitted by December 4, 2000.

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

[7] 15 U.S.C. 78f(b)(5).

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

Margaret H. McFarland,

Deputy Secretary.

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[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43509; File No. SR–PCX–00–12]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Exchange, Inc. Relating to Disciplinary Jurisdiction of the Ethics and Business Conduct Committee

November 2, 2000.

I. Introduction

On March 26, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of Securities Exchange Act 1934 (''Act'')[1] Rule 19b–4 thereunder,[2] a proposed rule change relating to the disciplinary jurisdiction of the Ethics and Business Conduct Committee (''EBCC''). On September 12, 2000, the PCX filed Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, including Amendment No. 1, was published for comment in the **Federal Register** on September 27, 2000.[4] No comments were received on the proposal. This order approves the proposal.

II. Description of Proposal

In its proposed rule change, the Exchange seeks to broaden the

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

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, to Jennifer L. Colihan, Attorney, Division of Market Regulation, Commission, dated September 11, 2000 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 43312 (September 20, 2000), 65 FR 58139.

jurisdiction of the EBCC to include the enforcement of rules and regulations relating to trading, order, decorum, health, safety, and welfare on the trading floors. Currently, Article IV, Section 9(b) of the PCX Constitution, states that ''[t]he jurisdiction of [the EBCC] shall not extend to the enforcement of rules and regulations of the Floor Trading Committees relating to trading, order, decorum, health, safety, and welfare on the trading floors, or to hearings held by and sanctions imposed by such committees relating to such matters.'' Currently, the rules and regulations governing trading, order, decorum, health, safety, and welfare are within the exclusive jurisdiction of the Floor Trading Committees (''FTCs''). The Exchange proposes to delete the above-quoted section from the PCX Constitution, and grant the EBCC and FTCs concurrent jurisdiction over the enforcement of these rules and regulations.

Under the proposal, the EBCC will be the primary disciplinary committee at the Exchange and the FTCs will retain jurisdiction to hear certain disciplinary matters, if necessary. An FTC rather than the EBCC may hear a case if it involves technical issues. For example, an FTC may act as the disciplinary committee if a ''Marking the Close'' trading violation occurs. That is, an incident that involves a market maker changing his quotes at the close to not accurately reflect the market in order to improve the market maker's position. In such a case, the Exchange believes having the expertise of Floor Officials would be appropriate.

III. Discussion

The Commission finds that the proposed rule change is consistent with Section 6(b) [5] of the Act, in general, and furthers the objectives of Section 6(b)(6),[6] in particular, in that it is designed to assure that Exchange members and persons associated with Exchange members are appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Commission believes that it is appropriate for the EBCC to have jurisdiction over disciplinary matters arising from the floor because it is less likely that the members of the EBCC will have personal knowledge of relevant incidents or a Floor Official ruling relating to the incident. The Commission believes that this will assist in creating a more objective disciplinary process at the PCX. Further, the proposed rule change will centralize disciplinary actions in one committee at the Exchange. The Commission believes that having one primary disciplinary committee responsible for hearing complaints will better assure consistency in the decisions rendered.

However, the Commission also believes that it is appropriate for the Exchange to allow the FTC to retain jurisdiction to hear those disciplinary matters that require specialized knowledge of the trading rules. The Commission understands many of the trading rules involve complex issues which require a high level of expertise to fully comprehend, and evaluate in a meaningful way.

The Commission believes that the Exchange's proposal to grant the EBCC and FTCs concurrent jurisdiction over disciplinary proceedings relating to trading, order, decorum, health, safety, and welfare on the trading floors, with the EBCC being the primary committee responsible, will result in consistent, independent decision-making. Moreover, the proposal will also ensure that matters involving complex and technical issues are handled by committees appropriately skilled to understand them and render fair decisions.

IV. Conclusion

For all of the aforementioned reasons, 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]

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PCX–00–12) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

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

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

[7] In approving this rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3(f) of the Act. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43510; File No. SR–PCX–00–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Changes to Schedule of Rates and Charges

November 3, 2000.

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 16, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee or other charge imposed by the Exchange under section 19(b0(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested person.

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

PCX is proposing to amend its schedule of rates and charges in order to eliminate credits for book executions, to increase registered representative options principal [4] fees, and to establish examination, registration and annual fees for off-floor trading firms and their traders. The text of the proposed change to the PCX fee schedule is available at the Exchange and at the Commission.

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

In its filing with the Commission, the Exchange 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

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] Telephone conversation between Hassan Abedi, Attorney, Regulatory Policy, PCX, and Terri Evans, Special Counsel, Division of Market Regulation, SEC, on November 1, 2000 (clarifying that the increased fee also applies to registered options principals).