The Exchange has rarely used or relied upon the opinion's description of regulatory proceedings. Its deletion would sacrifice little, while serving to simplify the opinion. In addition, the Exchange believes that the listing-application signature of an authorized officer of the issuer provides sufficient assurance of the board's authorization of the issue and of listing the issue on the Exchange.[3]

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are 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 of a free and open market and national market system, and, in general, to protect investors and the public interest.

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

The proposed rule change does not 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 has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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 longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be pro and publishes its reasons for so finding or (ii) as to which the self-regulatory organization 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.

[3] As for the elimination of the requirement to disclose counsel's affiliation to the issuer, in Amendment No. 1, the NYSE stressed that in most cases issuers no longer would have to furnish the opinion of counsel. The Exchange notes that if it needed to request, review, and/or rely on an opinion, the NYSE could then inquire about the opinion's source and any relevant affiliations. *See* Amendment No. 1.

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, 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 NYSE. All submissions should refer to the File No. SR–NYSE–98–12 and should be submitted by June 3, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–12706 Filed 5–12–98; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39970; File No. SR–PCX–97–28]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Relating to Exchange-Sponsored Hand-Held Terminals for Options Floor Brokers

May 7, 1998.

I. Introduction

On July 3, 1997, and December 12, 1997, respectively, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''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 and Amendment No. 1 thereto to adopt rules to allow the use of Exchange-Sponsored Floor Broker Hand-Held Terminals (''Exchange-Sponsored Terminals'') on the floor of the Exchange. The Exchange also proposed an interpretation to Rule 6.67 which would not require members' orders entered through Exchange-Sponsored Terminals to be in writing. Finally, the Exchange proposed Rule 6.88(b) to prohibit the use of a floor broker hand-held terminal for market making. On March 30, 1998, the Exchange filed Amendment No. 2 to the proposed rule change with the Commission.[3] In Amendment No. 2, the Exchange amends Rule 6.67, Commentary .02 to indicate that orders sent through proprietary Terminals would also be deemed to be written orders for the purposes of Rule 6.67.

The proposed rule change, and Amendment No. 1 thereto were published for comment in the **Federal Register** on January 16, 1998.[4] No comments were received on the proposal. This order approves the proposal as amended, including Amendment No. 2 on an accelerated basis.

II. Description of the Proposal

A. General Description

The Exchange's Member Firm Interface (''MFI'')[5] currently permits Exchange Member Firms to use an electronic link with the Exchange to send their option orders directly to the Exchange for delivery to POETS (Pacific Option Exchange Trading System).[6] Under the proposal, member firms

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

[2] 17 CFR 240.19b–4.

[3] See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy PCX to David Sieradzki, Attorney, Division of Market Regulation (''Division''), SEC dated March 27, 1998 (''Amendment No. 2'').

[4] Securities Exchange Act Release No. 39532 (Jan. 9, 1998), 63 FR 2711 (Jan. 16, 1998).

[5] The MFI is an electronic order delivery and reporting system that allows member firms to route orders for execution by the automatic execution feature of POETS as well as to route limit orders to the Options Public Limit Order Book. Orders that do not reach those two destinations are defaulted to a member firm booth. MFI also provides member firms with instant confirmation of transactions to their systems. Member firms may access POETS by establishing an MFI mainframe-to-mainframe connection.

[6] Orders entered via MFI are delivered to one of three destinations: (a) To Auto-Ex, where they are automatically executed at the disseminated bid or offering price; (b) to Auto-Book, which maintains non-marketable limit orders based on limit price and time of receipt; or (c) to a Member Firm's default destination—a particular firm booth or remote entry site—if the order fails to meet the eligibility criteria necessary for either Auto-Ex or Auto-Book or if the Member Firm requests such default for its orders. See generally Exchange Act Release No. 27633 (Jan. 18, 1990), 55 FR 2466 (Jan. 24 1990) (''POETS Approval Order'').

would be able to use the MFI connection to route orders directly to the member firm booth (not by default) or to a floor broker's Exchange-Sponsored Terminal located in the trading crowd.[7] The Commission notes that the PCX's proposal does not restrict the use of other Hand-Held terminal systems provided that they do not interfere electronically with existing Exchange systems.[8]

Under the program, Member Firms will be permitted to send their orders electronically to the Exchange via MFI and route them to one of three destinations on the trading floor: (a) To a floor broker standing in the trading crowd; (b) to a Member Firm booth location on the trading floor; or (c) to POETS, where they will be automatically executed by Auto-Ex or maintained in Auto-Book. All orders so transmitted will first be sent through the PCX's system that stores and processes all data for the Exchange-Sponsored Terminals (''Server'').[9] Orders sent to a Member Firm booth via the Server may be sent subsequently either to POETS or to a floor broker in the trading crowd. Orders sent via the Server to a floor broker in the trading crowd may subsequently be transmitted to a Member Firm booth, to POETS, or to another floor broker on the trading floor.

The Exchange intends to furnish Exchange-Sponsored Terminals to be used by floor brokers under the program. In addition, the Exchange will supply booth devices that will have the capability to retrieve and display all orders that were submitted through the device. The Exchange intends to assess users a monthly rental fee for such use after the implementation of the floor-wide program in Phase II.[10]

Exchange rules on order representation and order execution will be unchanged under the program.[11] However, the Exchange is proposing to modify one of its rules on orders to provide that an order sent electronically through MFI will be deemed to be a ''written order'' for purposes of Rule 6.67. The order information that must be reported to the Exchange in connection with each transaction that is executed on the trading floor will be also unchanged under the program.[12]

Under the proposal, initially, floor brokers using Exchange-Sponsored Terminals will not need to write up order tickets because the trade-related floor broker terminal information will be passed electronically to POETS and then to POPS (Pacific Options Processing Information) for clearing purposes. Yet the party on the other side of the trade, if it is executed by a market maker or a floor broker not using a terminal, will have to submit a paper order ticket to the Exchange for processing. Later, when advancements in technology allow for it, no paper tickets will be required because all market makers and floor brokers will be able to interface with each other through Exchange-Sponsored Terminals.[13] The order ticket requirement shall be the same with Exchange-Sponsored Terminals as it is for proprietary hand held terminals,[14] *i.e.*, if the trade information is not sent to the Exchange electronically, it will have to be conveyed by means of a written order ticket.

Once an order has been executed, the Exchange-Sponsored Terminal system will route trade information to POETS, which, in turn, will route the information to a computer for trade match and clearing purposes. At the same time, the Exchange will send a trade report to the Member Firm that entered the order. In addition, the Exchange will transmit trade information to OCC, OPRA and certain vendors.

Order information sent through the Exchange Sponsored Terminal system will become audit trail information that is available to the Exchange for regulatory purposes. However, if an order is routed to the Member Firm booth by telephone or wire, and not through MFI, and the order is then sent to POETS or to a floor broker in the crowd using the Exchange-Sponsored Terminals, the audit trail information will commence when the order is sent from the booth. An audit trail of all actions taken by the Exchange-Sponsored Terminal that result in an interaction with the Server will be maintained. Upon receipt of an order in the Server from POETS or a booth device, the order will be time stamped and retained in the Server's database. When orders are executed at a Exchange-Sponsored Terminal, they will be time stamped upon receipt by the Server. Accordingly, the Exchange believes that the audit trail information should be more accurate than current information, which is recorded manually on order tickets.

The Exchange will not prohibit floor brokers from using proprietary hand-held terminals[15] for order entry on the Options Floor as long as they do not interfere with any Exchange-Sponsored Terminals, with POETS or with other equipment on the floor.[16]

B. Prohibition of Market Making Function

The Exchange is proposing to adopt new Rule 6.88(b) providing that no Floor Broker may knowingly use a Exchange-Sponsored Terminal, on a regular and continuous basis, to simultaneously represent orders to buy and sell options contracts in the same series for the account of the same beneficial holder. The rule further provides that if the Exchange determines that a person or entity has been sending, on a regular and continuous basis, orders to simultaneously buy and sell option contracts in the same series for the account of the same beneficial holder, the Exchange may prohibit orders for the account of such person or entity

[7] In that regard, the Exchange is proposing to add a new Rule 6.88(a), which provides: ''Members and Member Organizations may send orders electronically through the Exchange's Member Firm Interface and route them directly to POETS, to a Member Firm booth on the Options Floor, to a Floor Broker Hand-Held Terminal located on the Options Floor, or to any other location designated by the Exchange, provided that the Member or Member Organization has been approved by the Exchange to do so.''

[8] See note 16 *infra* and accompanying text.

[9] Accordingly, the Exchange stated that there will be no appreciable delay in order entry due to the transmission of orders through the Server. The Exchange also stated that if a Member Firm routes an order to POETS via MFI for automatic execution or maintenance in Auto-Book, the order will not be sent through the Server. Only orders to be transmitted through the Hand-Held Terminal system will be sent through the Server.

[10] The Exchange will submit a separate rule filing to the Commission to establish these fees. See note 19 *infra* and accompanying text.

[11] See, *e.g.*, PCX Rules 5.1(e), 6.43–6.48 and Options Floor Procedure Advices A–1—A–11 and G–1—G12.

[12] See PCX Rule 6.69.

[13] The Commission notes that the Exchange should consult with the Commission to determine if any future changes in technology used on the Exchange floor would be required to be submitted to the Commission pursuant to Section 19(b) of the Act. Moreover, any additional conditions or limitations placed on the use of hand held terminals should be submitted to the Commission as a proposed rule change pursuant to Section 19(b) of the Act. See *Interactive Brokers LLC*, Admin. Proc. File No. 3–9237 (March 19, 1998) (opinion of the Commission).

[14] See note 15 *infra*.

[15] The Commission notes that a rule filing to permit Exchange floor brokers to use proprietary order routing terminals on the Options Trading Floor is currently pending before the Commission. See Securities Exchange Act Release No. 38270 (Feb. 11, 1997), 62 FR 7286 (Feb. 18, 1997) (Notice of filing of SR–PSE–97–02).

[16] The term ''interfere'' refers to electronic interference that may occur between a member's proprietary device and another electronic system or piece of equipment on the Trading Floor. For example, if the use of a proprietary devise on the floor caused the POETS automatic execution to halt, or if it disrupted telephonic communications on the floor, or if it prevented another member firm from being able to receive electronic orders through another order-routing system, then the device causing the interference could not be used on the floor until it was rendered compatible with the order electronic systems in use.

from being sent through the Exchange's Member Firm Interface for such period of time as the Exchange deems appropriate.[17]

C. Implementation

The Exchange is proposing a two-phase approach to integrating the new hand-held technology into the floor environment. In Phase I, the Exchange will allow limited implementation of the program to evaluate the use of Exchange-Sponsored Terminals and to identify and correct any problems that may arise. In this regard, the Exchange will select a representative cross-section of floor members and off-floor members for the execution of various types of order flow in both lightly-traded and heavily-traded issues. Phase I will last for about four months. It will involve approximately two off-floor Member Firms, two Member Firm booth devices and 12 Exchange-Sponsored Terminals. The Exchange, in conjunction with its Options Floor Trading Committee, will select Members and Member Firms to participate in Phase I on an objective basis.[18] During Phase I, floor brokers will not be permitted to transmit orders to other floor brokers (they will be limited to transmitting orders either to POETS or to a Member Firm booth).

In Phase II, the Exchange will roll out the program on a floor-wide basis, allowing any qualified Floor Member or off-floor Member who wishes to participate in the program to do so.[19] When Phase II is implemented, the Exchange-Sponsored Terminals program will be fully rolled out. Exchange-Sponsored Terminals will be approved for use in all trading crowds and will allow floor brokers to transmit orders to other floor brokers.

III. Discussion

Section 6(b)(5) of the Act[20] requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and in general to protect investors and the public interest. Section 6(b)(7) of the Act[21] requires that the rules of an Exchange be in accordance with Section 6(d) of the Act,[22] and in general that an Exchange provide a fair procedure for the disciplining of members and determining whether to prohibit or limit a person's access to services offered by the exchange. Section 6(b)(8) of the Act[23] requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Section 11A(a)(1)(C)(ii) of the Act[24] 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 Sections 6(b)(5), 6(b)(7), 6(b)(8), and 11A(a)(1)(C) of the Act.[25]

The Commission believes that the Exchange's proposal should foster coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest by expediting and making more efficient the process by which members can receive and execute options orders on the floor of the Exchange. The proposal also will promote fair competition among brokers and dealers and facilitate transactions in options on the Exchange. Finally, for the reasons described in more detail below, the Commission believes that the market making prohibition on the use of the Exchange-Sponsored Terminals adequately balances the potential benefits to be derived from Exchange-Sponsored Terminals with the important regulatory issues that are raised in connection with the potential use of Exchange-Sponsored Terminals for market making.

As described above, proposed Rule 6.88(b) provides that no Floor Broker may knowingly use an Exchange-Sponsored Terminal, on a regular and continuous basis, to simultaneously represent orders to buy and sell options contracts in the same series for the account of the same beneficial holder. The Rule further provides that if the Exchange determines that a person or entity has been sending, on a regular and continuous basis, orders to simultaneously buy and sell option contracts in the same series for the account of the same beneficial holder, the Exchange may prohibit orders for the account of such person or entity from being sent through the Exchange's Member Firm Interface for such period of time as the Exchange deems appropriate.

The Commission finds that the market making restriction is consistent with the Act for the following reasons. The Commission believes that the PCX's restriction on market making through the use of Exchange-Sponsored Terminals has been effected in a clear and reasonable manner that is not ambiguous nor overbroad, and that takes into account regulatory and market impact concerns, including those relating to quote competition and price discovery.[26] Notably, the Exchange's proposal does not bar all two-sided limit orders. Instead it only restricts the acceptance of two-sided limit orders placed by the same beneficial holder in the performance of a market making function. The distinction between market making and brokerage activity is well established among market participants. Moreover, the language of proposed Rule 6.88(b) expressly restricts a floor broker from, on a regular and continuous basis, simultaneously representing orders to buy and sell options contracts in the same series for the account of the same beneficial holder, not the occasional entry of two-sided limit orders. This definition of

[17] The Commission notes that a member would have the right to appeal any decision to suspend a member from using an Exchange-Sponsored Terminal pursuant to Exchange Rule 11.7, *Hearings and Review of Committee Act.*

[18] Factors will include the nature of order flow (retail or institutional), the nature of the issue (lightly-traded or heavily-traded), nature of the floor brokerage operation, time of application, limitations in the number of participants who may participate, and other such factors.

[19] The term ''qualified Floor Member or off-floor Member'' refers to the requirement that all floor brokers and order flow providers who participate in the program must be approved by the Exchange to do so. Floor brokers are eligible to participate if they are registered with the Exchange as floor brokers pursuant to Rule 6.44 and have arranged with a member firm to receive order flow through the system. Member firms are eligible to participate in the program if they have made arrangements with a floor broker for the transmission and execution of orders. Moreover, after Phase II is implemented, the Exchange has represented that it intends to impose a fee upon participants in the program in an amount to be specified in a rule change proposal to be filed with the Commission under Section 19(b) of the Act.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(7).

[22] 15 U.S.C. 78f(d). Section 6(d) of the Act, among other things, require that an exchange, in any proceeding to determine whether a member should be disciplined, bring specific charges, notify such member of and provide him with an opportunity to defend himself against such charges, and keep a record.

[23] 15 U.S.C. 78f(b)(8).

[24] 15 U.S.C. 78k–1(a)(1)(C).

[25] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] *Cf.*, Securities Exchange Act Release No. 25842 (June 23, 1988), 53 FR 24539 (approving certain restrictions on the use of telephones on the floor of the New York Stock Exchange), *aff'd per curiam*, 866 F.2d 47 (2d Cir. 1989).

market making activity is consistent with the definition of market maker under the Act which states that a market maker ''holds himself out as being willing to buy and sell [a] security for his own account on a regular or continuous basis.'' [27] Thus, the market making restriction on Exchange-Sponsored Terminal use for routing limit orders it he minimum necessary for the Exchange to bar Terminal use for off-floor market making.

Further, as the Commission has previously stated in approving market making restrictions similar to that being adopted by PCX, the Commission does not believe it unreasonable for a market to determine that the introduction of unregulated market making through floor brokerage hand held terminals may undermine its market maker system and potentially create disincentives for market makers to remain on an exchange trading floor.[28] Accordingly, any burden on competition that arguably exists from PCX's restriction on using Exchange-Sponsored Terminals for market making is, in the Commission's view, justified as reasonable and appropriate to ensure adequate regulation of the PCX market.[29]

The Exchange represents that it intends to implement the use of Exchange-Sponsored Terminals through the use of a two-phase approach. The Commission believes that it is consistent with the Act for the Exchange to limit the introduction of Exchange-Sponsored Terminals at this time given the Exchange's stated desire to identify and correct any problems that may arise. Further, the Exchange has stated that participants in Phase I will be selected on the basis of certain objective criteria.[30] The Commission notes that after the completion of Phase I, which the Exchange represents should last approximately four months, Phase II will begin, allowing any qualified Floor Member or off-floor member who wishes to participate in the program to do so.[31] As noted by the Exchange, all floor brokers that have registered with the Exchange as floor brokers pursuant to Rule 6.44 and have arranged with a member firm to receive order flow through the system will be eligible to participate in the Exchange-Sponsored Terminals program. The Commission expects the Exchange to allow any floor broker that meets the above requirements to participate in the program.

In addition, the Commission believes that the proposed interpretation to Rule 6.67, under which the transmission of an order that is received by means of an Exchange-Sponsored Terminal or proprietary hand-held terminal will be deemed to constitute a written order for the purposes of Rule 6.67, in general, protects investors and the public interest. The Commission believes the proposed commentary to Rule 6.67 will provide a more efficient means of communicating orders on the floor. The Commission notes that while this proposed Commentary effects the format of the order ticket, the Exchange has represented and the Commission expects that the required content of the order ticket would not be altered.[32]

Finally, regarding the use of proprietary hand-held terminal systems on the floor of the Exchange; the Exchange has represented that it intends to allow the use of proprietary hand-held terminal systems on the floor of the Exchange provided that they do not electronically interfere [33] with existing Exchange systems.[34] As discussed above, the Exchange notes that if, for example, the use of a proprietary devise on the floor caused the POETS automatic execution to halt, or if it disrupted telephonic communications on the floor, or if it prevented another member firm from being able to receive electronic orders through another order-routing system, then the device causing the interference could not be used on the floor until it was rendered compatible with the other electronic systems in use. The Commission finds that this restriction is reasonable given that it is limited to electronic interference with other exchange systems and that an interfering system would be permitted to return to the floor once it is made compatible with other exchange systems. The Commission notes that any implementation of this provision to restrict competition or the introduction of new technology onto the floor of the Exchange would be inconsistent with the Exchange's rules and with the Act. In summary, the Commission emphasizes and finds it very important that approval of the PCX's Exchange-Sponsored Terminals proposal will not restrict members from using their own proprietary terminal systems provided that they do not electronically interfere with existing Exchange systems.[35]

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 2 amends the language in proposed Commentary .02 to Rule 6.67 to indicate that orders received through proprietary hand held terminals will be considered to be in writing for the purposes of Rule 6.67. Commentary .02, as originally proposed, applied only to Exchange-Sponsored Terminals. Amendment No. 2 ensures that all systems, whether Exchange sponsored or not will have the same regulatory requirements. As a result, the Commission does not believe that Amendment No. 2 raises any new regulatory issues. Further, the Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b) [36] of the Act, to approve Amendment No. 2 to the

[27] 15 U.S.C. 78c(a)(38).

[28] See Securities Exchange Act Release No. 38054 (Dec. 16, 1996), 61 FR 67365 (Dec. 20, 1996) (order approving SR–CBOE–95–48).

[29] While the Commission recognizes that there may be ways to address the regulatory issues presented by off-floor market making through the use of floor broker hand-held terminals, the Act does not dictate that any particular approach be taken. The Commission believes that the manner in which the Exchange has chosen to address the regulatory issues presented by off-floor market making reflects the considered judgment of the PCX regarding the attributes of Exchange membership and the organization of its trading floor, and is a fair exercise of its powers as a national securities exchange.

[30] See *supra* note 18.

[31] The term ''qualified Floor Member or off-floor Member'' refers to the requirement that all floor brokers and order flow providers who participate in the program must be approved by the Exchange to do so. Floor brokers are eligible to participate if they are registered with the Exchange as floor brokers pursuant to Rule 6.44 and have arranged with a member firm to receive order flow through the system. Member firms are eligible to participate in the program if they have made arrangements with a floor broker for the transmission and execution of orders. Moreover, after Phase II is implemented, program participants will be required to pay the Exchange a fee in an amount to be specified in a rule change proposal to be filed with the Commission.

[32] Telephone conversation between Michael D. Pierson, Senior Attorney, Regulatory Policy PCX and David Sieradzki, Attorney, Division, SEC on April 22, 1998. The Commission notes that any change to the required content of an order ticket would have to be submitted to the Commission as a proposed rule change under Section 19(b) of the Act.

[33] The term ''interfere'' refers to electronic interference that may occur between a member's proprietary device and another electronic system or piece of equipment on the Trading Floor.

[34] The Exchange has represented that this policy includes allowing Exchange members to interface electronically with MFI, POETS or the limit order book; provided that the proprietary system is properly configured to interface with these systems. Telephone conversation between Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX and David Sieradzki, Attorney, Division, SEC on April 6, 1998.

[35] See *supra* note 16.

[36] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 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, N.W., 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 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 above-mentioned self-regulatory organization. All submissions should refer to File No. SR–PCX–97–28 and should be submitted by June 3, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–PCX–97–28) is approved as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–12702 Filed 5–12–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39972; File No. SR–PHLX–98–20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change By the Philadelphia Stock Exchange, Inc. To Adopt, on a Pilot Basis, a System Enhancement to the X-Station Electronic Book

May 7, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act),[1] notice is hereby given that on April 24, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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

The Exchange, pursuant to Rule 19b–4 under the Act, proposes, as a six month pilot, to adopt a system enhancement to the X-Station electronic book on the options floor which matches incoming Automatic Execution System (''AUTO–X'') orders with orders residing on the specialist's book.

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 Phlx 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. The Phlx 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

As described in Phlx Rule 1080, Comment .02, the electronic order book is an automated mechanism for specialists to hold and display orders based on price/time priority. The Exchange is currently preparing floor-wide deployment of the new X-Station electronic book on the options floor. The new X-Station provides certain improvements such as expedited non-AUTO–X order execution as well as expedited cancel replacement processing.

AUTO–X is the automatic execution feature of the Automated Options Market (''AUTOM'') System, the electronic order delivery and routing system for options orders. Currently, AUTO–X orders are executed against a ''shadow account'' for which the specialist is ultimately responsible. The execution is immediately reported back to the sending firm, and then, the specialist must manually input the contra-side interest representing the booked order that becomes due as a result of the AUTO–X trade.

At this time, the Phlx proposes to adopt, as a six month pilot, a system enhancement to the electronic book that matches incoming AUTO–X orders with booked orders. The proposed matching ability would allow the specialist to match these two participants directly, without the specialist participating in the trade, by dropping the order to manual status. The match would not be automatic, as the specialist must ensure that crowd participation under current parity/priority rules is not due before executing the trade; thus, the specialist must ''select'' the orders to execute the trade. Since the AUTO–X order has dropped to manual, the sending firm will not receive an execution report until the specialist selects and executes the trade.

The proposed enhancement affords specialists relief from the manual burden of inserting trade participant and clearing information by writing an order ticket for the booked order. Without the X-Station itself, the booked order appears on an actual order ticket, which the specialist submits for key punch entry. Thus, implementing the X-Station without the matching feature is more burdensome than the process required without the X-Station itself because it requires more ticket-writing. The proposed enhancement should reduce the amount of paper processed on the options floor. This in turn should reduce handling and processing time, including the likelihood of errors, thereby facilitating more prompt and accurate trade reporting.

For these reasons, the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by enhancing efficiency through automation in the market.

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

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

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[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

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