

6(b)⁴ of the Act, in general, and furthers the objectives of Section 6(b)(4),⁵ in particular, in that it is designed to prevent fraudulent 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 a national market system and, in general, 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 would impose any inappropriate burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change is concerned solely with the administration of the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and subparagraph (e) of Rule 19b-4 thereunder.⁷ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 Amex. All submissions should refer to the File No. SR-AMEX-98-36 and should be submitted by November 6, 1998.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-27821 Filed 10-15-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40538; File No. SR-BSE-98-06]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change Seeking Permanent Approval of the Exchange's Market-On-Close Order Handling Requirements Pilot Program

October 9, 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 August 13, 1998, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the BSE. On September 17, 1998, the Exchange submitted Amendment No. 1 to the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposal, as amended.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Karen A. Aluise, Vice President, BSE to Richard Strasser, Assistant Director, Division of Market Regulation, Commission dated September 15, 1998 ("Amendment No. 1"). In Amendment No. 1, the Exchange requests permanent approval of the pilot program relating to market on-close orders.

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

The Exchange seeks to amend its current pilot program regarding procedures for market-on-close ("MOC") orders⁴ to mirror changes recently made to the comparable New York Stock Exchange ("NYSE") and American Stock Exchange ("Amex") rules. Also, the Exchange seeks permanent approval of its MOC pilot procedures as amended by this proposal.

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 BSE 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 BSE 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

1. Purpose

The purpose of the proposed rule change is to amend the current pilot program for the handling of MOC orders⁵ to mirror recent changes made by the NYSE⁶ and the Amex⁷ and to seek permanent approval of the pilot program. The Exchange's current rules provide for different treatment of MOC orders on Expiration Fridays and Quarterly Index Expiration Days⁸ than on non-expiration days.⁹ In addition,

⁴ A MOC order is a market order to be executed in its entirety at the closing price on the Exchange.

⁵ The Exchanges' current pilot program will expire on October 31, 1998. See Securities Exchange Act Release No. 39327 (November 14, 1997), 62 FR 62381 (November 21, 1997).

⁶ See Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 33975 (June 22, 1998) (NYSE MOC Approval Order).

⁷ See Securities Exchange Act Release No. 40123 (June 24, 1998), 63 FR 36280 (July 2, 1998) (Amex MOC Approval Order). In the Amex MOC approval order, the Amex also adopted a rule allowing the Amex to accept limit-at-the-close ("LOC") orders. *Id.* At this time, the BSE does not accept LOC orders.

⁸ The term "expiration days" refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently ("Expiration Fridays") and (2) the trading day on which end of calendar quarter index options expire ("QIX Expiration Days").

⁹ See BSE Rules §§ 22(A) and 22(B).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(e)(3).

the current rules provide for the publication of order imbalances of 50,000 shares or more only in the pilot stocks,¹⁰ stocks being added to or dropped from an index, and upon the request of a specialist, any other stock with the approval of a floor official.¹¹

While the deadline for entry of indications of interest by floor brokers to the specialist and the cancellation of MOC orders on Expiration Fridays and Quarterly Index Expiration Days is currently set at 3:40 p.m., the deadline on non-expiration days is currently set at 3:50 p.m.¹² The Exchange seeks to adopt the same time frame as the primary markets, which recently amended their respective procedures to set the deadline at 3:40 p.m. in all stocks on all trading days.¹³

The current rules also address the publication of order imbalances of 50,000 shares or more on Expiration Fridays and Quarterly Index Expiration Days. Currently, publication is required as soon as practicable after 3:40 p.m. on expiration days, and as soon as practicable after 3:50 p.m. on nonexpiration days. The Exchange seeks to provide that publication of order imbalances of 50,000 shares or more in NYSE-listed securities (and 25,000 shares or more in Amex-listed securities) shall occur as soon as practicable after 3:40 p.m. on all trading days, bringing the BSE rule into conformity with its primary market counterparts.

¹⁰The pilot stocks consist of the 50 most highly capitalized Standard & Poor's ("S&P") 500 stocks and any component stocks of the Major Market Index ("MMI") not included in the S&P 500 groups of stocks.

¹¹ See BSE Rules §§ 22(A)(c) and 22(B)(c).

¹² See BSE Rules §§ 22(A)(a) and 22(B)(a).

¹³ See Amex MOC Approval Order, *supra* note 7 and NYSE MOC Approval Order, *supra* note 6.

An additional publication shall be required at 3:50 p.m. on all trading days for any NYSE-listed security that had an imbalance publication at 3:40 p.m. If the imbalance at 3:50 p.m. is less than 50,000 shares, a "no imbalance" status must be published, although an imbalance of less than 50,000 shares may be published with floor official approval, provided there had been an imbalance publication at 3:40 p.m. If the 3:50 p.m. imbalance publication reversed the first imbalance publication, only MOC orders that offset the 3:50 p.m. imbalance would be permitted to be entered thereafter. This requirement is intended to present market participants with a more timely and accurate picture of imbalances before the close.

In addition, the current rules provide for the publication of order imbalances (on both Expiration Fridays/Quarterly Index Expiration Days and non-expiration days) in the pilot stocks, stocks being added to or dropped from an index, and upon the request of a specialist, any other stock with the approval of a floor official. The Exchange seeks to publish order imbalances in all stocks on all trading days, also in conformity with the primary market rules.¹⁴

The Exchange proposes to adopt language that will permit, but not require, the publication of order imbalances of less than 50,000 shares in NYSE-listed securities (and less than 25,000 shares in Amex-listed securities) as soon as practicable after 3:40 p.m. in any stock with the approval of a floor official, thereby permitting the publication of an imbalance which, although less than 50,000 (25,000)

¹⁴ See NYSE MOC Approval Order, *supra* note 6.

shares, may be significantly greater than the average daily volume in a stock.

III. Discussion

The Commission finds that the proposed rule change is consistent with Section 6 of the Act¹⁵ and the rules and regulations thereunder. In particular, the Commission believes that the proposal is consistent with the Section 6(b)(5)¹⁶ requirements that the rules of an exchange be 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 a national market system, and, in general, to protect investors and the public interest.¹⁷

In recent years, the Exchange and other self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the liquidation of stock positions at the end of the trading day. Special procedures regarding the entry of MOC orders on Expiration Fridays were first used by the NYSE in 1986 for assisting in handling the order flow associated with the concurrent quarterly expiration of stock index futures, stock index options and options on stock index futures on Expiration Fridays.¹⁸

¹⁵ 15 U.S.C. 78f.

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78f(b).

¹⁸ See Securities Exchange Act Release No. 24926 (September 17, 1987), 52 FR 24926 (approving File No. SR-NYSE-87-32 and noting that the MOC procedures described therein had been utilized on a quarterly basis since September 1986).

These procedures allow specialists to determine the buying and selling interest in MOC orders and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice of the imbalance and with an opportunity to make appropriate investment decisions in response. Based on the NYSE's experience,¹⁹ the Commission believes that the MOC order handling requirements work relatively well and may result in more orderly markets at the close on expiration days.

In today's highly competitive market environment, however, 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 the primary markets. Although the Commission has no reason to believe that the BSE market has become a significant alternative market to enter otherwise prohibited MOC orders, the Commission agrees with the BSE that, if this possibility were realized, it could have a negative impact on the fairness and orderliness of the national market system.²⁰ Accordingly, the Commission believes that it is reasonable for the BSE to adopt procedures for the handling of MOC

orders that mirror those of the NYSE and Amex, thereby ensuring the equal treatment of orders in those markets and, in the event of unusual market conditions, offering the BSE the same benefits in terms of potentially reducing volatility.

In this regard, the Commission notes that the proposed rule change will standardize the BSE's closing procedures on expiration and non-expiration days with those on the NYSE and Amex.²¹ The proposal will impose a deadline of 3:40 p.m. for entry of all MOC orders on both expiration and non-expiration days. Floor brokers representing MOC orders also must indicate their MOC interest to the specialist by 3:40 p.m. every day. In conjunction with the prohibition on canceling or reducing any MOC order after 3:40 p.m., the Commission believes that these requirements should allow the specialist to make a timely and reliable assessment, on expiration and non-expiration days alike, of MOC order flow and its potential impact on closing prices.

The proposal will also provide that publication of order imbalances of 50,000 shares or more in all NYSE-listed securities (and 25,000 shares or more in all Amex-listed securities) shall occur as soon as practicable after 3:40 p.m. on all trading days. An additional publication shall be required at 3:50 p.m. on all trading days for any NYSE-listed security which had an imbalance publication at 3:40 p.m. If the imbalance at 3:50 p.m. is less than 50,000 shares, a "no imbalance" status must be published, although an imbalance of less than 50,000 shares may be

published with floor official approval, provided there had been an imbalance publication at 3:40 p.m. If the 3:50 p.m. imbalance publication reversed the first imbalance publication, only MOC orders which offset the 3:50 p.m. imbalance would be permitted to be entered thereafter.

Finally, the proposal permits, but does not require, the publication of order imbalances of less than 50,000 shares in NYSE-listed securities (and less than 25,000 shares in Amex-listed securities) as soon as practicable after 3:40 p.m. in any stock with the approval of a floor official, thereby permitting the publication of an imbalance which, although less than 50,000 (25,000) shares, may be significantly greater than the average daily volume in a stock.

The Commission believes that the enhanced publication requirements described above are appropriate and consistent with the Act. Requiring an additional order imbalance publication at 3:50 p.m. for all NYSE-listed securities having a published imbalance as of 3:40 p.m. is consistent with the current practice on the NYSE and may help ease market volatility at the close by attracting additional offsetting MOC orders for stocks that have a significant order imbalance as of 3:50 p.m. In addition, the Commission believes that allowing the publication of imbalances of less than 50,000 (25,000) shares in all stocks with the approval of a floor official is consistent with the practice on the NYSE and Amex and may assist in easing volatility at the close. With respect to changing the deadline for entering MOC orders on non-expiration days, the Commission believes that, by giving market participants more time to

¹⁹The NYSE has submitted to the Commission several monitoring reports describing its experience with the auxiliary closing procedures. For further discussion of the reports filed by the NYSE, see Securities Exchange Act Release No. 36404 (October 20, 1995), 60 FR 55071 (approving File No. SR-NYSE-95-28). The most recent report filed by the NYSE was received on May 14, 1998.

²⁰For example, if MOC orders prohibited on the NYSE and Amex were entered instead on the BSE, unusually large MOC order imbalances on the regional exchange could contribute to overall market volatility.

²¹See Amex MOC Approval Order, *supra* note 7, and NYSE MOC Approval Order, *supra* note 6.

react to published MOC order imbalances, the proposal may contribute to reducing volatility at the close. Finally, the proposal requests that the Commission permanently approve the Exchange's MOC pilot program. As noted above, these auxiliary closing procedures have been used by the NYSE since 1986 without significant difficulty. Therefore, the Commission believes that it is appropriate at this time to approve the Exchange's pilot program on a permanent basis.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of this proposal in the **Federal Register**. As discussed in more detail above, the changes made in this proposal are identical to changes made by the NYSE and the Amex.²² As a result, the Commission does not believe that the proposal raises any new regulatory issues. Further, the Commission notes that the Amex and NYSE proposals were published for the full 21-day comment period during which no comment letters against either proposal were received by the Commission. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)²³ of the Act, to approve the Exchange's proposal and Amendment No. 1 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change and Amendment No. 1, including whether it 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 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 BSE. All submissions should refer to File No.

SR-BSE-98-06 and should be submitted by November 6, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁴ that the proposed rule change (SR-BSE-98-06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-27822 Filed 10-15-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40536; File No. SR-NSCC-98-10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Modifying NSCC's Collateral Management Service

October 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 22, 1998, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-NSCC-98-10) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

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

The proposed rule change will add an interactive messaging feature to NSCC's Collateral Management Service ("CMS").²

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

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.³

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CMS provides automated access to information on participants' clearing fund, margin, and other deposits at NSCC and other participating clearing entities.⁴ The information available through CMS includes excess and deficit collateral amounts and detailed data on deposited collateral (*i.e.*, cash, securities, and letters of credit).

CMS information is made available to NSCC participants that choose to participate in the service, to participating clearing entities, and if an entity requests, to participants of a participating clearing entity. Each participating clearing entity may access only its own participants' information through CMS. Similarly, a participant may access only its own information through CMS. CMS enables participating clearing entities to submit information and enables participating clearing entities and participants to view their respective information. However, CMS currently does not provide any additional processing capabilities.

The participating clearing entities that currently provide information to CMS include The Depository Trust Company ("DTC"), Government Securities Clearing Corporation ("GSCC"), MBS Clearing Corporation, NSCC, and The Options Clearing Corporation ("OCC"). Information regarding the Mortgage-Backed Securities Division of DTC (formerly Participants Trust Company) is expected to be provided to CMS in the near future. In addition, NSCC has established an interface that links CMS to the Pays and Collects System ("PCS") of the Board of Trade Clearing Corporation ("BOTCC").⁵

NSCC believes that CMS enables participants to manage their collateral efficiently at participating clearing entities by providing a single automated source of information. According to NSCC, CMS also benefits participating

²⁴ 15 U.S.C. 78s(b)(2).

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The complete text of the proposed amendments to NSCC's rules and procedures is attached to NSCC's filing as Exhibit A, which is available for inspection and copying at the Commission's Public Reference Room and through NSCC.

³ The Commission has modified the text of the summaries prepared by NSCC.

⁴ For a detailed description of CMS, refer to Securities Exchange Act Release No. 36091 (August 10, 1995), 60 FR 42931 [File No. SR-NSCC-95-06].

⁵ PCS is a database operated by BOTCC that contains information regarding participants' collateral positions at futures clearing entities.

²² *Id.*

²³ 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).