subject to the NYSE Rule 431(e)(6) equity requirements, which prohibit a member from carrying a proprietary account in a deficit equity condition and require that the amount of any deficiency between the equity maintained in the proprietary account and the margin required by NYSE Rule 431 be deducted in computing the net capital of the member carrying the proprietary account.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, Section 6(b)(5) of the Act,[12] in that it is designed 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.[13]

Specifically, the Commission finds, as it has concluded previously,[14] that it is appropriate for the NYSE to apply the existing maintenance margin requirements of NYSE Rule 431(c) to transactions in the new ''good faith'' account adopted under Regulation T. Although non-equity transactions permitted in the good faith account will not be subject to the initial margin requirements and payment and liquidation time frames of Regulation T, as the NYSE notes, transactions in the good faith account may raise the same safety and soundness concerns with regard to maintenance margin as do transactions in cash and margin accounts. Accordingly, the Commission believes that it is appropriate for the NYSE to apply the existing maintenance margin requirements specified in NYSE Rule 431(c) to transactions in the good faith account. The Commission believes that applying the maintenance margin requirements of NYSE Rule 431(c) to transactions in the good faith account will protect investors and the public interest and help to maintain fair and orderly markets by ensuring that good faith accounts contain adequate margin reserves.

In addition, the Commission believes that it is appropriate for the NYSE to revise the definition of ''customer'' in NYSE Rule 431(a)(2) to codify the Exchange's position that exempt borrowers will remain exempt from the requirements of NYSE Rule 431, except for the proprietary account of a broker-dealer carried by a member pursuant to NYSE Rule 431(e)(6). The Commission believes that it is appropriate for the NYSE to continue to apply the equity requirements of NYSE Rule 431(e)(6) to the proprietary accounts of introducing broker-dealers that qualify as ''exempted borrowers'' under Regulation T if these accounts are carried by another Exchange member. By continuing to apply the equity requirements of NYSE Rule 431(e)(6) to these proprietary accounts, the Commission believes that the proposal will help to ensure that these accounts contain adequate margin, thereby protecting investors and the public interest.

IV. Conclusion

It is therefore, ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NYSE–98–16) is approved on a permanent basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27823 Filed 10–15–98; 8:45 am]

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[12] 15 U.S.C. 78f(b)(5).

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

[14] *See* March Approval Order, *supra* note 3, and Partial Approval Order, *supra* note 5.

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

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40532; File No. SR–PCX–98–48]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Amend PCX Rule 6 Regarding the Exchange's Dress Code

October 8, 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 September 23, 1998, 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 PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 204.19b–4.

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

The Exchange is proposing to modify certain rules on Options Floor conduct, including standards of dress and consumption of food and drink on the Trading Floor. The rule change also modifies the current provisions on order tickets that are used on the Floor for options orders. Proposed new language is italicized; proposed deletions are bracketed.

* * * * *

¶4733 Admission to and Conduct on the Options Trading Floor

Rule 6.2(a)–(b)—No change.

(c) *Standards of Dress and Conduct*—No change.

(1) *Standards of Dress*—No change.

(A) Personal attire *must* [shall] be neat, clean and presentable.

(B) Men must wear [dress] shirts *with collars* [and neckties or bow ties tied in a conventional manner and worn under shirt collars; clip bow ties must be clipped to both sides of shirt collars. Golf and Aloha shirts are prohibited for both men and women.]

(C) All persons must wear trading jackets and/or suit or sport coats while present on the Trading Floor.

(D) The following are examples of violations of Trading Floor dress code standards:

(i) Blue jeans that are patched, torn, frayed or faded; tie-dyes; tube tops; overalls; military uniforms or fatigues; sweat suits; or trousers that are frayed or torn.

(ii) Bare or stocking feet or thongs.

(iii) Clothing drawing excessive attention, including costumes of any kind, bare midriffs, halter tops, sheer blouses, miniskirts, T-shirts, hot pants, shorts, or abbreviated clothing of any kind.

(E) [Waiver of the dress code means only that ties and jackets need not be worn]. *The Options Floor Trading Committee may impose additional standards of dress or otherwise modify these standards of dress by means of a written policy that will be distributed to Options Floor Members.*

(2) *Standards of Conduct.*

(A)—No change.

(B) The entry of food or drink *may be permitted at the discretion of the Options Floor Trading Committee.* [of any kind to the Floor during trading hours is prohibited.] Alcoholic beverages may not be consumed on the Trading Floor at any time [unless this prohibition is waived by a majority of the Options Trading Floor Committee. If a quorum of this Committee cannot be

found, a designated Officer of the Exchange may waive the restriction.]

(C)–(F)—No change.

* * * * *

¶5061 Certain Types of Orders Defined

Rule 6.62(a)–(d)—No change.

(e) *Not held order.* A not held order is an order *that is* marked ''not held,'' [,] *''NH,'' ''take time'' or that* [which] bears any qualifying notation giving discretion as to the price or time at which such order is to be executed. *The ''not held'' designation must appear in the ''special instructions'' portion of the order ticket. Orders that merely include a ''not held'' designation as part of the time stamp will not be deemed to be ''not held'' orders.*

(f)(–(j)—No change.

* * * * *

¶5103 Reporting Duties

Rule 6.69(a)–(d)—No change.

Commentary:

.01–.03—No change.

.04 Time stamping on the back of the hard card does not meet the Exchange's time stamp requirements because the hard card is not submitted to the Exchange.

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

In its filing with the Commission, PCX 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. PCX has prepared summaries, set forth in sections, A, B and C below, of the most significant aspect of such statements.

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

Purpose

The PCX is proposing to change the standards of dress on the trading floor (currently set forth in Rule 6.2(c)). The current rule states that men must wear dress shirts with collars and neckties or bow ties tied in a conventional manner and worn under shirt collars; and that clip bow ties must be clipped to both sides of shirt collars. The current rule also states that golf and Aloha shirts are prohibited for both men and women. the rule change eliminates those provisions and replaces them with the requirement that men must wear shirts with collars. The rule change would also adopt a provision stating that the Options Floor Trading Committee (''OFTC'') may impose additional standards of dress or otherwise modify the current standards of dress by means of a written policy that will be distributed to Options Floor Members.

PCX is also proposing to modify the rules on food or drink permitted on the Trading Floor pursuant to Rule 6.2(c)(2)(B). The current rule prohibits food or drink on the Floor during trading hours and prohibits alcoholic beverages at any time unless this prohibition is waived by a majority of the OFTC. The Exchange proposes to change the rule so that it would state that food or drink may be permitted on the Trading Floor at the discretion of the OFTC and by prohibiting the consumption of alcoholic beverages on the Trading Floor at any time.

In addition, PCX is proposing to adopt additional requirements on ''not held'' orders. The current Rule 6.62(e) defines a ''not held'' order as an order marked ''not held'', ''take time'' or which bears any qualifying notation giving discretion as to price or time at which such order is to be executed.[3] The proposed rule change would require that the appropriate designation, ''not held'' or ''take time,'' must appear in the ''special instructions'' portion of the order ticket. The rule change also provides that orders that include a ''not held'' designation as part of the time stamp will not be deemed to be ''not held'' orders.

Finally, the PCX is proposing to adopt a new Rule 6.69.04 specifying that time stamping on the back of the hard card does not meet the Exchange's time stamp requirements. This change is based on the fact that the hard card is not routinely submitted to the Exchange.

Basis

The Exchange believes that the proposal is consistent with Section 6(b)[4] of the Act, in general, and Section 6(b)(5),[5] in particular, in that is designed to promote just and equitable principles of trade, to facilitate transactions in securities, 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

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)[6] of the Act and paragraph (e)(3) of Rule 19b–4 thereunder[7] because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such 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 proposal is consistent with the Act.[8] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, 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 in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–98–48 and should be submitted by November 6, 1998.

[3] *See* PCX Rule 6.62(e).

[4] 15 U.S.C. 78f(b).

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

[6] 15 U.S.C. 78s(b)(3).

[7] 17 C.F.R. 240.19b–4.

[8] In reviewing this proposal, the commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40530; File No. SR–PHLX–98–18]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Auto–X Contra Party Participation (the Wheel)

October 7, 1998.

I. Introduction

On June 5, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 to amend Options Floor Procedure Advice F–24 (''Advice F–24'') governing AUTO–X Contra Party Participation (the Wheel). The proposed rule change was published for comment in the **Federal Register** on September 3, 1998.[3] The Commission received no comments regarding the proposal. On September 15, 1998, the Phlx filed with the Commission Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change and is simultaneously approving Amendment No. 1 on an accelerated basis.

I. Description of the Proposal

AUTO–X is the automatic execution feature of the Exchange's Automated Options Market (''AUTOM'') system,[5] which provides customers with automatic executions of eligible option orders at displayed markets. The Wheel is an automated mechanism for assigning floor traders (*i.e.*, specialists and Registered Options Traders (''ROTs'')), on a rotaing basis, as contra-side participants to AUTO–X orders.

In 1994, the Commission approved the Exchange's Wheel provisions as Advice F–24.[6] The purpose of the Wheel is to increase the efficiency and liquidity of order execution through AUTO–X by including certain floor traders in the automated assignment of contra-parties to incoming AUTO–X orders. Thus, the Wheel is intended to make AUTO–X more efficient, as contra-side participation is assigned automatically. Although specialists are required to participate on the Wheel, currently, ROT participation is voluntary, absent extraordinary circumstances.

In its filing, the Phlx proposes that in extraordinary circumstances, to promote liquidity, two Floor Officials may require all ROTs who signed onto the Wheel at any time during the last thirty business days to participate on the Wheel. This proposed amendment to section (d) of Advice F–24 removes the broader ability to require all ROTs to sign on in extraordinary circumstances by limiting the provision to ROTs who have previously signed on. Thus, ROTs who had not signed onto the Wheel in the past thirty days would not be subject to this provision. The purpose of this change is to establish a more equitable sign-on requirement, affecting only those ROTs who have previously participated on the Wheel.

The Phlx also proposes to amend section (c)(iii) of Advice F–24 to require expressly that ROTs sign off the Wheel when leaving the Wheel assignment area for more than a brief interval.[7] The Exchange explains that this change should clarify the obligations of a ROT to sign off the Wheel by incorporating affirmative language into Advice F–24(c)(iii). The proposal is designed to ensure that ROTs are aware of and meet their responsibilities pertaining to the sign-off requirements for the Wheel. Because section (c)(iii) is subject to a fine schedule, the Exchange also proposes to amend its minor rule violation enforcement and reporting plan.[8] Moreover, Amendment No. 1 incorporated language into Advice F–24 that became effective pursuant to a rule filing submitted subsequent to the current proposal.[9]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act. In particular, the Commission believes the proposal is consistent with Section 6(b)(5)[10] of the Act.[11] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

As the Commission previously has noted, AUTO–X enhances the Exchange's ability to execute small public customer orders in a timely, accurate, and efficient manner, and the automation of assignments of contra-parties for AUTO–X trades should improve order processing and turnaround time.[12] The Commission agrees with the Exchange that it should be more equitable, in extraordinary circumstances when ROTs are forced onto the Wheel, to limit those ROTs compelled to serve as contra-parties to those who have taken advantage of Wheel participation in the past thirty days. Moreover, given the significance of maintaining orderly Wheel operations, it is sensible to clarify the affirmative responsibility of Wheel participants to sign-off the wheel when they leave the Wheel assignment area

[9] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 40374 (August 27, 1998) 63 FR 47078.

[4] In Amendment No. 1, the Exchange noted additional language in Advice F–24 that had become effective pursuant to a separate rule filing. *See* Letter from Linda S. Christie, Counsel, Exchange, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated September 14, 1998 (''Amendment No. 1'').

[5] AUTOM is an electronic order routing system for option orders. *See* Phlx Rule 1080.

[6] Securities Exchange Act Release No. 35033 (November 30, 1994), 59 FR 63152 (December 7, 1994) (order approving Advice F–24).

[7] The Phlx defines ''brief'' to mean 5 minutes or less, or in matters of a dispute, the amount of time it takes to call in a Floor Official and inform him/her of the issue at hand. *See* Securities Exchange Act Release No. 38881 (July 28, 1997), 62 FR 41986 (August 4, 1997) (order approving changes to Advice F–24). The Exchange has clarified that ROTs who signed off to leave the Wheel assignment area may return and sign back onto the Wheel the same day. Telephone conversation between Linda S. Christie, Counsel, Phlx, and Lisa Henderson, Attorney, Division, Commission (July 23, 1998).

[8] The Phlx's minor rule violation enforcement and reporting plan (''minor rule plan''), codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules. Rule 19d–1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting. Rule 19d–1(c)(1) under the Act requires prompt filing with the Commission of any final disciplinary action. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

[9] *See* Securities Exchange Act Release No. 40370 (August 27, 1998) 63 FR 47077 (September 3, 1998) (notice of immediate effectiveness of SR–PHLX–98–34).

[10] 15 U.S.C. 78f(b)(5).

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

[12] *See* Securities Exchange Act Release No. 35033 (November 30, 1994) 59 FR 63152 (December 7, 1994) (order approving SR–PHLX–94–32).