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

In its filing with the Commission, OCC 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. OCC 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

The purpose of this rule change is to provide for the fees to be charged for clearing security futures contracts. OCC proposes to charge the same clearing fees for security futures as it charges for options. As with new options products, clearing fees for security futures will be abated through the first full calendar month of trading on each exchange and discounted for the second through the first full calendar month of trading on each exchange and discounted for the second and third calendar months.

The proposed rule change is consistent with Section 17A of the Act, as amended, because it provides for the equitable allocation of reasonable fees among clearing members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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

Because the foregoing rule change establishes fees to be imposed by OCC upon clearing members, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2).[5] At any time within sixty 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.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, 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 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 in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR–OCC–2001–10 and should be submitted by December 5, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–28492 Filed 11–13–01; 8:45 am]

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[3] The Commission has modified parts of these statements.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–(f)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45032; File No. SR–PCX–00–05]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Amendment No. 4 to the Proposed Rule Change by the Pacific Exchange, Inc. Relating to Its Automatic Execution System

November 6, 2001.

I. Introduction

On March 8, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), 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 allow broker-dealer orders to be eligible for automatic execution through the Exchange's Automatic Execution System (''Auto-Ex'') on an issue-by-issue basis. The Exchange also proposed to adopt rules to establish means of improving compliance with rules pertaining to the use of Auto-Ex. After publishing the proposal for notice and comment in the **Federal Register**,[3] the Commission partially approved the proposal and granted accelerated approval to Amendment Nos. 2 and 3.[4] Specifically, the Commission approved the portion of the proposal relating to the establishment of provisions to improve compliance with the Exchange's Auto-Ex rules; the Commission did *not* approve the portion of the proposal that would allow orders for the accounts of broker-dealers to be executed on Auto-Ex on an issue-by-issue basis.

On October 29, 2001, the PCX filed Amendment No. 4 to the proposed rule change.[5] In Amendment No. 4, PCX addressed the remaining portion of proposed rule change regarding the eligibility of broker-dealer orders for automatic execution through Auto-Ex on an issue-by-issue basis. This order grants accelerated approval to Amendment No. 4 to the proposed rule change and solicits comments from interested persons on that Amendment.

Below is the proposed text of the portion of the proposed rule change relating to the eligibility of broker-dealer orders for automatic execution through Auto-Ex, as amended by Amendment No. 4.[6] Proposed new language is *italicized*; proposed deletions are in brackets.

* * * * *

¶ 5231 Automatic Execution System

Rule 6.87(a)—No change

(b) Eligible Orders.

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 43049 (July 18, 2000), 65 FR 45810 (July 25, 2000) (''Initial Proposal'').

[4] Securities Exchange Act Release No. 43971 (February 15, 2001), 66 FR 11344 (February 23, 2001) (''Partial Approval Order'').

[5] *See* letter from Michael D. Pierson, Vice President, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated October 26, 2001 (''Amendment No. 4'').

[6] The text of this rule change is based upon current PCX Rule 6.87(b). It disregards previously proposed amendments to PCX Rule 6.87(b) that were included in the Initial Proposal and approved in the Partial Approval Order.

(1) Only non-broker/dealer customer orders are eligible for execution on the Exchange's Auto-Ex System, *except that the Options Floor Trading Committee (''OFTC'') may determine, on an issue-by-issue basis, to allow the following types of orders to be executed on Auto-Ex:*

(A) Broker-dealer orders; or

(B) Broker-dealer orders that are not for the accounts of Market Makers or Specialists on an exchange who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to Section 7(c)(2) of the Securities Exchange Act of 1934.

Broker-dealer orders entered through the Exchange's Member Firm Interface (MFI) will not be automatically executed against orders in the limit order book. Broker-dealer orders may interact with orders in the limit order book only after being re-routed to a floor broker for representation in the trading crowd. Broker-dealer orders are not eligible to be placed in the limit order book pursuant to Rule 6.52.

(2) If the OFTC permits broker-dealer orders to be automatically executed in an issue pursuant to this Rule, then it may also permit the following with respect to such orders:

(A) The maximum order size eligibility for broker-dealer orders may be less than the applicable order size eligibility for non-broker-dealer customer orders.

(B) Non-broker-dealer customer orders may be eligible for automatic execution at the NBBO pursuant to Rule 6.87(i) while broker-dealer orders are not so eligible.

(C) Broker-dealer orders may be re-routed for manual representation when the NBBO is crossed or locked pursuant to Rule 6.87(j) when non-broker-dealer customer orders would not be re-routed for manual handling in such circumstances.

(3) PCX Marker Makers must assure that orders for their own accounts are not entered on the PCX and represented or executed in violation of the following provisions: Rule 6.84(h) (concurrent representation of a joint account), Rule 6.85(a) (concurrent representation of a market maker account), and Section 9 of the Securities Exchange Act of 1934 (wash sales).

(4) For purposes of this Rule, the term ''broker/dealer'' includes foreign broker/dealers.

[(2)–(3)]–*(5)–(6)*—No change.

* * * * *

II. Description of the Proposal

In 1990, the Commission approved the Exchange's POETS system on a pilot program basis and, in 1993, POETS was approved permanently.[7] POETS is comprised of an options order routing system (''ORS''), an automatic and semi-automatic execution system, Auto-Ex, an on-line book system (''Auto-Book''), and an automatic market quote update system (''Auto-Quote'').

In its Initial Proposal, PCX had proposed, among other things, that broker-dealer orders be permitted, on an issue-by-issue basis, to be executed on Auto-Ex. Furthermore, under the Initial Proposal, only broker-dealer orders that were *not* for the accounts of registered specialists and registered market makers would be eligible for automatic execution through Auto-Ex, subject to approval by the OFTC. Pursuant to Amendment No. 4, the Exchange is now proposing to allow *all* types of broker-dealer orders to be eligible for automatic execution, subject to OFTC approval. Specifically, under the amendment, the OFTC would be permitted to approve Lead Market Makers' requests to allow either: (a) automatic execution of broker-dealer orders, regardless of type, in particular option issues; or (b) automatic execution of broker-dealer orders in particular option issues, exclusing those orders that are for the accounts of registered specialists and registered market makers.

Pursuant to Amendment No. 4, if the OFTC approves the automatic execution of broker-dealer orders, regardless of type, in a particular option issue, then any orders for the accounts of registered market makers or specialists, including orders for PCX options markets makers and PCX Lead Market Makers, would be eligible for automatic execution on the PCX in that issue. However, inbound broker-dealer orders would not be eligible to be executed against orders residing in the limit order book (as inbound ''customer'' orders are currently permitted to do). If there is a customer limit order in the PCX's limit order book that is priced at the National Best Bid or Offer (''NBBO''), then an inbound market or marketable limit order for the account of a broker-dealer will be re-routed to a Floor Broker Hand-Held Terminal for execution by a floor broker. However, in certain rare circumstances, such orders will be re-routed to a member firm booth on the trading floor.[8] Accordingly, the Exchange is adding the following provisions to the text of PCX Rule 6.87(b)(1):

Broker-dealer orders entered through the Exchange's Member Firm Interface (MFI) will not be automatically executed against orders in the limit order book. Broker-dealer orders may interact with orders in the limit order book only after being re-routed to a floor broker for representation in the trading crowd. Broker-dealer orders are not eligible to be placed in the limit order book pursuant to Rule 6.52.

The POETS system currently distinguishes between customer and non-customer orders based upon the clearing information provided as part of each order. Manual and electronic order tickets must designate, for each order, whether the order is for a ''customer'' account, a ''firm'' account or a ''market maker'' account, by the designators ''C,'' ''F'' or ''M,'' respectively. These designators are intended to assure that the orders executed on the PCX clear in the proper margin accounts at the Options Clearing Corporation. They are also intended to assure that the orders are handled in a manner that is consistent with various PCX rules on eligibility for placement in the limit order book (PCX Rule 6.52(a)), order identification requirements (PCX Rule 6.66), priority of bids and offers (PCX Rule 6.75), firm quote size guarantees (PCX Rule 6.86), and eligibility for automatic execution (PCX Rule 6.87).

The Exchange notes that orders for the accounts of PCX market makers and Lead Market Makers that are entered for automatic execution will be subject to certain limitations under PCX rules. Currently, under PCX Rule 6.85(a), a market maker and any orders represented by a floor broker on behalf of that market may not be represented concurrently at the same trading post. This prohibition against ''dual representation'' would be violated, for example, in the following situation: A market maker in the XYZ trading crowd enters an order in XYZ options for his or her own account with a floor broker (via telephone, electronically or in-

[7] *See* Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (January 24, 1990) (approving POETS on a pilot basis); Securities Exchange Act Release No. 32703 (July 30, 1993), 58 FR 42117 (August 6, 1993), (approving POETS on a permanent basis). The Auto-Ex system permits eligible market or marketable limit orders sent from member firms to be executed automatically at the displayed bid or offering price. Participating market makers are designated as the contra side to each Auto-Ex order. Participating market makers are assigned by Auto-Ex on a rotating basis, with the first market maker selected at random from the list of signed-on market makers. Automatic executions through Auto-Ex are currently available for public customer orders of twenty contracts or less (or in certain issues, for up to one hundred contracts) in all series of options traded on the Options Floor of the Exchange.

[8] The PCX represents that such broker-dealer orders will be routed to the trading floor if a firm has specified such treatment of the order, or as a default designation if the firm has not made a specification as to where such order should be routed. Telephone conversation between Michael D. Pierson, Vice President, Regulatory Policy, PCX, and Sapna C. Patel, Division, Commission, on November 5, 2001.

person), and the floor broker then represents the order while the market maker is still present in the XYZ trading crowd. A similar violation would occur if, under the proposed rule change, a market maker in the XYZ trading crowd entered an order in XYZ options with his or her upstairs brokerage firm via the internet, and the brokerage firm then re-routed the order back to the PCX, where it was either automatically executed or defaulted for manual handling by a floor broker. In either case, the market maker will have violated PCX Rule 6.85(a) because all orders entered for automatic execution are ultimately represented by designated floor brokers, even if they are automatically executed. However, if the market maker were trading for a joint account in that situation, then that market maker would have violated PCX Rule 6.84(h), which provides a similar prohibition on concurrent representation when a market maker is trading in a joint account. Furthermore, if a market maker enters an order for his or her own account with a brokerage firm, and the order is re-routed back to the PCX where it is executed against the same market maker's account, there will be a possible ''wash sale'' violation regardless of whether the trade was subsequently nullified.

For these reasons, the Exchange is proposing to adopt new PCX Rule 6.87(b)(3), which will provide as follows:

PCX Market Makers must assure that orders for their own accounts are not entered on the PCX and represented or executed in violation of the following provisions: Rule 6.84(h) (concurrent representation of a joint account), Rule 6.85(a) (concurrent representation of a market maker account), and Section 9 of the Act (wash sales).

The Exchange notes that, pursuant to PCX Rule 6.87(e)(3), market makers may not remain on the Auto-Ex ''wheel'' unless they are present in the trading crowd, except under certain very limited circumstances.

Pursuant to Amendment No. 4 to the proposed rule change, the OFTC would also have the ability to permit certain limitations on the automatic execution of broker-dealer orders. First, broker-dealer orders may have a smaller order size eligibility parameter for automatic execution than customer orders. For example, the OFTC may approve a size limitation in a particular issue of twenty contracts for broker-dealer orders and fifty contracts for customer orders.[9] Second, broker-dealer orders in an issue may be ineligible for NBBO step-up while customer orders in that issue may be eligible for NBBO step-up pursuant to PCX Rule 6.87(i). For example, if the PCX's best bid is 5 and the national best bid is 5.10, a customer order to sell at 5.10 entered on the PCX may receive an automatic execution of 5.10, while a broker-dealer order in the same issue to sell at 5.10 would not be automatically executed, but instead would be re-routed to a floor broker for execution. Third, a customer order in a particular issue by be automatically executed even though the NBBO is crossed or locked, while a broker-dealer order in the same issue would be re-routed to a floor broker for execution if the NBBO is crossed or locked, pursuant to PCX Rule 6.87(j).

The Exchange represents that the proposed rule change is consistent with the Act and rules and regulations thereunder. In particular, the Exchange represents in its Initial Proposal that the proposed rule change is consistent with Section 6(b)[10] of the Act, in general, and furthers the objectives of Section 6(b)(5),[11] in that it is designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest. In addition, the Exchange represents that the proposal is consistent with Section 11(a) of the Act[12] and Rule 11a2–2(T) under the Act[13] for the reasons stated in the Exchange's letter to the Commission.[14]

The Exchange further notes that the amendment to the proposed rule change is consistent with the Commission's approval of the Options Intermarket Linkage Plan (''Linkage Plan'').[15] PCX notes that the Linkage Plan Release states:

> The * * * plan would allow eligible market makers to send proprietary orders through the linkage. [However, if] the principal order is not larger than the Firm Principal Quote Size, the exchange receiving such order through the linkage *must execute it in its automatic execution system,* if its disseminated quote is equal to or better than the reference price at the time the order arrives.[16]

The Exchange notes that the Commission found that ''allow[ing] eligible market makers to use the linkage to hit quotes on an away market [helps] to protect the priority of the better displayed price.''[17] The Exchange also believes that allowing market makers and specialists on other exchanges to promptly access the PCX's markets via the Auto-Ex system will further the goals of a national market system by assuring that quotes can be promptly accessed by other market participants. This, in turn, should serve to reduce the number of trade-throughs as well as locked and crossed quotes in the options markets.

The Exchange also notes that its rules currently permit the Exchange, or an issue-by-issue basis, to automatically execute inbound orders of registered eligible market makers on other exchanges, via Auto-Ex, pursuant to the Interim Intermarket Linkage Program. Under this program, ''two or more Participating Exchange [may] mutually agree that they will *automatically execute * * * orders sent for the principal account of a market maker,* an [Eligible Away Market Maker] or an [Eligible Away Principal Market Maker] that does not correspond to an Underlying Customer Order.''[18]

Finally, the Exchange believes that its Amendment No. 4 to the proposed rule change to allow automatic execution of all broker-dealer orders, subject to OFTC approval, is a legitimate means for the PCX to compete for orders for the accounts of broker-dealers to be executed on the PCX. The Exchange notes that another exchange already has

[9] The Exchange notes that a Lead Market Maker's minimum Auto-Ex size guarantee in an issue is established at the time that the Options Allocation Committee (''OAC'') allocates that issue to the Lead Market Maker. Pursuant to PCX Rule 6.82(c)(2), Lead Market Makers are required to ''[h]onor guaranteed markets, including markets required by Rule 6.86 [''firm quotes''] and any markets pledged during he allocation process.'' Therefore, if a Lead Market Maker were to seek to establish an Auto-Ex size guarantee for broker-dealer orders that is less than the Auto-Ex size established during the allocation process, the Lead Market Maker would have to obtain approval of both the OFTC and the OAC for that size guarantee.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78k(a).

[13] 17 CFR 240.11a2–2(T).

[14] *See* letter to Catherine McGuire, Chief Counsel, Division, Commission, from Michael D. Pierson, Vice President, Regulatory Policy, PCX, dated October 26, 2001 (''PCX Request Letter'').

[15] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) (''Linkage Plan Release''). The Commission notes that only proprietary orders of ''eligible market makers,'' as that term is defined in the Linkage Plan Release, and not proprietary orders of all market makers and broker-dealers, may be sent through the linkage. An eligible market maker must meet the criteria and volume requirements set forth in the Linkage Plan Release in order to utilize the linkage for proprietary orders.

[16] *Id.* (emphasis added.)

[17] *Id.* The Linkage Plan Release also stated that ''the Commission would support broader access between options markets'' than is provided for in the linkage Plan. *Id.*

[18] *See* PCX Rule 6.91(a)(9) (emphasis added); *see also* PCX Rule 6.91(b); Securities Exchange Act Release No. 43986 (February 20, 2001), 66 FR 12578 (February 27, 2001) (File No. SR–PCX–01–10) (notice of filing and immediate effectiveness of Interim Intermarket Linkage Program).

the ability to automatically execute broker-dealer orders.[19]

III. Discussion

After careful review, the Commission finds that Amendment No. 4 to the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[20] Specifically, the Commission finds that approval of Amendment No. 4 is consistent with Section 6(b)(5)[21] of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission finds that it is appropriate to allow broker-dealer orders to be eligible for automatic execution through the Exchange's Auto-Ex system, subject to the approval of the OFTC.[22]

The Commission finds good cause for approving Amendment No. 4 to the proposed rule change prior to the thirtieth day after the Amendment is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[23] Amendment No. 4 allows all broker-dealer orders to be executed through Auto-Ex, subject to OFTC approval. The Commission finds that this Amendment is necessary to accomplish the intended goals of the Exchange's proposal and to allow the Exchange to compete with another exchange that currently allows the electronic execution of broker-dealer orders. The Commission therefore believes that acceleration of Amendment No. 4 to the proposed rule change is appropriate.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether the Amendment 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 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 PCX. All submissions should refer to File No. SR–PCX–00–05 and should be submitted by December 5, 2001.

V. Conclusion

For the foregoing reasons, the Commission finds that Amendment No. 4 to the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5).[24]

It Is Therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that Amendment No. 4 to the proposed rule change (SR–PCX–00–5) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–28491 Filed 11–13–01; 8:45 am]

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[19] Specifically, the PCX notes that on the International Securities Exchange (''ISE''): ''If a member enters a limit order into the System that crosses trading interest already in the System, a trade will occur, to the extent that size is available, at the price of the trading interest already in the System.'' *See* Securities Exchange Act Release No. 42455

(February 24, 2000), 65 FR 11388 (March 2, 2000) (order approving ISE's application for registration as a national securities exchange) (File No. 10–127).

[20] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] In response to the Exchange's request in the PCX Request Letter, Commission staff has provided interpretive guidance to the Exchange under Section 11(a) of the Act, 15 U.S.C. 78k(a). *See* letter from Paula R. Jenson, Deputy Chief Counsel, Division, Commission, to Michael D. Pierson, Vice President, Regulatory Policy, PCX, dated October 30, 2001.

[23] 15 U.S.C. 78s(b)(2).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45029; File No. SR–SCCP–2001–10]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Extensions of Invoice Dates and the Associated Waiver of Late Charges

November 6, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 3, 2001, the Stock Clearing Corporation of Philadelphia (''SCCP'') 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 primarily by SCCP. 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 proposed rule change waives late charges that may have resulted from the extension of SCCP's July and August invoice due dates.[2] Charges that appeared on SCCP's July and August invoices were originally due on September 14, 2001 and October 15, 2001, respectively. The due date for the July invoices was extended to October 15, 2001, and the due date for the August invoices was extended to November 14, 2001. Associated late charges that may have been imposed under SCCP Rule 25 as a result of these extensions are waived.[3]

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

In its filing with the Commission, SCCP included statements concerning the purpose of and basis for the

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

[2] Pursuant to SCCP Rule 25, SCCP shall impose upon any participant using the facilities or services of SCCP, or enjoying any of the privileges therein, a late charge until payment is received of dues, fees, fines or other charges imposed by SCCP and not paid within thirty (30) days after notice thereof has been mailed.

[3] Late charges incurred in connection with invoices other than the July and August invoices will not be waived. In addition, late charges may be imposed on the July and August invoices if payment is received after October 15, 2001, for the July invoice and after November 14, 2001, for the August invoice.