

appropriate in furtherance of purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(a) of the Act⁸ and Rule 19b-4(f)(6)⁹ thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6)¹¹ normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(ii)¹² permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange seeks to have the proposed rule change become operative immediately in order to allow the pilot to continue in effect on an uninterrupted basis.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately through January 31, 2001. The extension of the pilot will provide the Commission with the time necessary to review and evaluate the Exchange's proposal to permanently adopt the Live Ammo to RAES system. The Commission notes that unless the pilot is extended, the Pilot will expire on December 15, 2000, which the Commission believes could result in confusion regarding how orders on the Live Ammo screen should be handled. Therefore, the Commission believes that it is in the public interest to extend the pilot.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately through January 31, 2001.¹³ 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 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, 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 CBOE. All submissions should refer to File No. SR-CBOE-00-65 and should be submitted by January 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43718; File No. SR-NASD-00-36]

Self-Regulatory Organizations; The National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Options Position Reporting Requirements and Application of Options Position and Exercise Limits to Trades With Non-member Brokers and Dealers

December 13, 2000.

I. Introduction

On June 14, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through it wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), 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 apply options position reporting requirements and options position and exercise limits to trades with non-member brokers and dealers.

The proposed rule change was published for comment in the **Federal Register** on September 7, 2000.³ No comments were received. This order approves the proposal.

II. Description of the Proposal

Presently, the NASD's options position limits, exercise limits, and reporting requirements, Rules 2860(b)(3), 2860(b)(4) and 2860(b)(5), respectively, apply to: (1) Account in which a member has an interest; (2) an account in which a member's partner, officer, director or employee has an interest, or (3) a customer account.

However, the NASD's definition of "customer" excludes a broker or dealer; therefore, non-member brokers and dealers are currently outside the scope of these rules. To bring non-member brokers and dealers within the purview of NASD Rule 2860, the NASD proposed to amend the rule to: (1) Require members to report the options positions that they effect for non-member brokers and non-member dealers where such positions meet the reporting thresholds under NASD rules; (2) apply the NASD's options position and exercise limits to members that effect trades for

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ As required under rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b(f)(6)(iii).

¹³ For purposes only of accelerating the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ 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. 43220 (August 29, 2000), 65 FR 54334.

non-member brokers and non-member dealers; (3) codify an interpretive position with respect to which firms are required to report standardized options positions under the NASD's options position reporting requirements; and (4) clarify that a member may have its clearing firm report options positions to the NASD.

In addition, the NASD proposed several technical amendments to the options position reporting requirements to take into account staff interpretive positions with respect to reporting standardized and conventional options. Specifically, the amendments codify options position reporting requirements set forth in Notice to Members 94-46, which states that the reporting requirements are "applicable to all standardized options positions established by members of their customers." Access firms are defined in the requirements as NASD members that conduct a business in exchange-traded options but are not themselves members of the options exchange upon which such options are listed and traded. Limiting reporting of standardized options positions under NASD rules to access firms only avoids imposing duplicative reporting requirements on NASD members who are also members of an options exchange, inasmuch as members of an options exchange (*i.e.*, dual members) are required to report positions on standardized options pursuant to the rules of the options exchange(s) of which they are a member.

Finally, the rule proposal clarifies that, consistent with current practice, a member may report positions directly to the Association or have such positions reported to the Association by another firm. According to the Association, this amendment would not eliminate the member's ultimate responsibility to ensure that the firm reporting the positions on the member's behalf makes the necessary filings with the NASD.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities association. Specifically, the Commission finds that the proposal to amend NASD Rule 2860 is consistent with section 15A(b)(6) of the Act.⁴

Section 15A(b)(6)⁵ requires that the rules of the registered national securities association be designed to prevent fraudulent and manipulative acts and

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, facilitating transactions in securities, 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.⁶

The Commission believes that the proposed rule change will protect individual investors and the public by enabling the NASD to better monitor the financial exposure of its member firms. The Commission also believes that the proposed rule change will result in consistent application of position and exercise limits by ensuring that trades effected by NASD members on behalf of non-member brokers and non-member dealers are also subject to those limits. Finally, the Commission believes that the proposed provisions clarifying options reporting procedures, and other technical amendments, are also consistent with the overall objective of the rule proposal.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-NASD-00-36) be, and hereby is, approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43714; File No. SR-PCX-00-21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Financial Arrangements of Options Floor Members

December 12, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 7, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities

and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX.³ On November 30, 2000, the Exchange submitted Amendment No. 1 to the proposed rule change.⁴ 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 PCX is proposing to eliminate its current PCX Rule 6.40 on financial arrangements of options floor members and is also proposing to adopt supplemental rules on options floor members who are trading for the same joint account. The text of the proposed rule change follows. Additions are in *italics*; deletions are in [brackets].

¶ 3809 Disclosure of Financial Arrangements of Members

Rule 4.18(a)-(b)—No change.

[(c) The Exchange may restrict the trading activity of Members with financial arrangements pursuant to Rule 6.40. Such restrictions are subject to appeal, pursuant to Rule 11.7.]

¶ 4953 Financial Arrangements of Options Floor Members

Rule 6.40(a)—*Reserved* [Financial Arrangements Defined. Two Members have a "financial arrangement" with each other for purposes of this Rule if:]

[(1) One Member directly finances the other Member's dealings upon the Exchange, the amount financed is \$5,000 or more, and the Member providing the financing is entitled to a share of the other Member's trading profits; or

(2) Both Members are registered with the Exchange as nominees of the same Member Organization; or

(3) Both Members are registered with the Exchange to trade on behalf of the same joint account; or

(4) Both Members' dealings upon the Exchange are financed by the same source, the amount financed is \$5,000 or more, and the Member providing the financing is entitled to a share of each of the other Members' trading profits.]

[For purposes of this Rule, the term "Member" shall include both Members and Member Organizations.]

[(b) Options Floor Trading Restrictions.]

³ The PCX subsequently submitted the text of the proposed rule change language properly formatted for publication in the **Federal Register**. The reformatted version did not contain any substantive changes to the proposed rule change language. See letter dated November 1, 2000, from Michael D. Pierson, PCX, to Kelly Riley, Division of Market Regulation, SEC.

⁴ The PCX amended the original filing by way of letter amendment. See letter dated November 29, 2000, from Michael D. Pierson, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC.

⁴ 15 U.S.C. 78o-3(b)(6).

⁵ *Id.*

⁶ In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.