

volume parameters of each firm. In the event that the firm routing the order is not routing orders to the crowd, the order would be routed to the firm's own booth.<sup>4</sup> The orders are routed to the Floor Brokers instead of being automatically executed at the market price, because CBOE Rule 6.45 provides that bids or offers displayed on the customer limit order book are entitled to priority over other bids or offers at the same price. Until the Automated Book Priority system was developed, the Exchange did not have a method to maintain the priority of orders on the customer limit order book other than to reject the order from RAES in those circumstances.

To implement the Automated Book Priority system, the CBOE proposes to amend paragraphs (b) and (c) of CBOE Rule 6.8, "*RAES Operations in Equity Options*," to provide for RAES orders to trade directly against orders entered in the Exchange's customer limit order book. The Exchange also proposes to delete Interpretation .04 of CBOE Rule 6.8 which concerns how orders that have been "kicked out" pursuant to paragraph (c) should be handled. Of course, once a RAES order is "kicked out" or rerouted to a Floor Broker, that order becomes subject to market risk as there may be some delay between the time the order is rerouted and the time the order is actually filled by the Floor Broker in open outcry. In times of extreme market volatility, even a short period of time between the rerouting and the execution of the order could have a significant effect on the price at which the order is executed.

The Automated Book Priority system will both prevent the RAES order from becoming subject to market risk and preserve the priority of the booked order. Thus, the proposed rule change will benefit customers using the RAES system as well as those whose orders are in the Exchange's book because both categories of orders will be executed more quickly than they would have been executed otherwise.

Because the Exchange does not believe the Automated Book Priority system will be ready to be implemented until at least August 1999, the Exchange does not plan to actually implement this rule change until the system is ready to be implemented. The Exchange will

provide its membership with prior notice by means of a Regulatory Circular informing them of the date the system will be implemented and the rule will be changed.

## 2. Statutory Basis

The CBOE believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5)<sup>5</sup> of the Act in that it is designed to remove impediments to a free and open market and to protect investors and the public interest.

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

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

### 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

Within 35 days of the date of the 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 appropriate 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.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 CBOE. All submissions should refer to File No. SR-CBOE-99-29 and should be submitted by August 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-18658 Filed 7-21-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41623; File No. SR-NYSE-99-10]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. to Amend Rule 123A.40

July 16, 1999.

Pursuant to Section 19(b)(1) of the Security Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 19, 1999, the New York Stock Exchange, Inc. ("NYSE" 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 NYSE. 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 would amend NYSE Rule 123A.40 to allow specialists to elect stop orders at a bid or offer that *bettors* the market and would eliminate the requirement for specialists to obtain Floor Official approval, unless the price of the specialist's electing transaction is *more than 1/16* point away from the previous sale.

### 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 Exchange included statements

<sup>4</sup> Currently, RAES orders in options on IBM, the Dow Jones Industrial Average (DJX) and the Standard & Poor's 100 Stock Index (OEX) may be executed on RAES even where the prevailing market bid or offer equals the best bid or offer on the Exchange's book. Upon the implementation of the Automated Book Priority system, RAES orders in these option classes, like all other option classes, will trade against orders in the book in these circumstances.

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 C.F.R. 240.19b-4.

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 and is set forth in Sections A, B, and C below.

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

1. Purpose

NYSE Rule 123A.40 generally prohibits a specialist from making a transaction for his or her own account that would result in electing stop orders.<sup>3</sup> However, the Rule permits a specialist to be party to the election of a stop order under two sets of circumstances: (i) when the specialist's bid or offer is made with the prior approval of a Floor Official, has the effect of *bettering* the market, and the specialist guarantees that the stop order will be executed at the same price as the electing sale; and (ii) when the specialist purchases or sells stock *at the current bid or offer* in order to facilitate completion of a member's order at a single price, where the depth of the current bid or offer is not sufficient.

The Exchange proposes to amend part (i) of the Rule to allow the specialist to make a bid or offer that *better* the market at a price that would elect stop orders and eliminate the requirement to obtain Floor Official approval, unless the price of the specialist's electing transactions is *more than 1/16* point away from the previous sale. The Rule would retain the requirement that the specialist guarantee that stop orders be executed at the same price as the electing sale.

A review of specialists' stop order electing transactions shows that a significant percent of trades occur at little or no change in price. For example, a study of the difference between the electing stop price and last sale price for September through November 1998 shows that 86% of the electing sales took place at 1/16 point change or less from the last sale price. The proposed change follows the philosophy that smaller variation trades do not require immediate scrutiny by a Floor Official. The Exchange's program for surveying stop order elections would not be affected by the proposed change to NYSE Rule 123A.40.

<sup>3</sup> A stop order is an order that becomes an executable market order, or limit order, once the specified price ("stop price") is reached. A stop order is elected when the stock trades at or beyond the stop price and, thus, may not necessarily be executed at that price. See NYSE Rule 13.

Based on these statistics, therefore, the proposal would eliminate approximately 86% of required Floor Official approvals in this area. A comparison of Stop Election Forms (Floor Official approval slips) submitted during July and August 1997 versus the same weeks in 1998 shows that the number of such forms (and therefore requests for Floor Official approval) doubled in 1998. In 1998, on average, more than 800 Stop Election Forms a day were submitted during this period. The proposed change would significantly reduce the administrative burden on Floor Official and specialists without compromising the Exchange's ability to survey stop order elections.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)<sup>4</sup> that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market 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*

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**

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 appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve the proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and

<sup>4</sup> 15 U.S.C. 78f(b)(5).

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 the NYSE. All submissions should refer to File No. SR-NYSE-99-10 and should be submitted by August 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-18656 Filed 7-21-99; 8:45 am]

BILLING CODE 8010-01-M

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41611; File No. SR-PCX-99-04]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to an Increase in the Maximum Size of Option Orders That May Be Executed Automatically**

July 9, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 10, 1999, 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. On February 25, 1999 the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On May 25, 1999 the Exchange

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 sets the maximum order size for execution through Auto-Ex for equity options