

## OFFICE OF PERSONNEL MANAGEMENT

### Privacy Act of 1974; Computer Matching Program Between the Office of Personnel Management and the Social Security Administration

**AGENCY:** Office of Personnel  
Management (OPM)

**ACTION:** Notice of a computer matching  
program between OPM and the Social  
Security Administration (SSA) for  
comment.

**SUMMARY:** OPM is publishing notice of  
its computer matching program with  
SSA to meet the reporting and  
publication requirements of Public Law  
100-503, the Computer Matching and  
Privacy Protection Act of 1988. The  
purpose of this match is to identify  
beneficiaries who have remarried and  
not reported the remarriages to OPM.  
Generally, remarriage terminates  
benefits for survivor annuitants 55 years  
of age or younger. A recent amendment  
creates an exception based on a  
marriage that lasted 30 years or more. In  
this match, OPM will provide SSA with  
surnames, dates of birth, and Social  
Security Numbers to identify survivor  
beneficiaries who have not reported  
remarriages to OPM and are improperly  
receiving benefits under the Civil  
Service Retirement and Federal  
Employees' Retirement Systems (CSRS  
and FERS). The match will be  
conducted with SSA's Numident file, a  
source of beneficiaries' current  
surnames.

**DATES:** This proposed action will  
become effective 40 days after the  
agreements by the parties participating  
in the match have been submitted to  
Congress and the Office of Management  
and Budget (OMB), unless either the  
Congress or OMB objects thereto. Any  
public comment on this matching  
program must be submitted within the  
30-day public notice period, which  
begins on the publication date of this  
notice.

**ADDRESSES:** Any interested party may  
submit written comments to Kathleen  
M. McGettigan, Assistant Director for  
Systems, Finance, and Administration,  
Retirement and Insurance Service,  
Office of Personnel Management, Room  
4316, 1900 E Street, NW., Washington,  
D.C. 20415.

**FOR FURTHER INFORMATION CONTACT:**  
Marc Flaster, (202) 606-2115.

**SUPPLEMENTARY INFORMATION:** OPM and  
SSA have concluded an agreement to  
conduct a computer matching program  
between the two agencies. The purpose  
of this agreement is to establish the

conditions under which SSA agrees to  
the disclosure of information from the  
Numident file to OPM. The legal  
authority for this matching program can  
be found in 5 U.S.C. sections 8341,  
8347, 8442 and 8461.

Office of Personnel Management.

**Janice R. Lachance**  
*Director.*

### Report of Computer Matching Agreement Between the Office of Personnel Management (OPM) and the Social Security Administration (SSA)

#### A. Participating Agencies

OPM and SSA.

#### B. Purpose of the Matching Program

Chapters 83 and 84 of title 5, United  
States Code (U.S.C.) provide the basis  
for paying a survivor annuity to  
widows, widowers, former spouses, or  
children. The purpose of this match is  
to identify beneficiaries who have  
remarried and not reported the  
remarriage to OPM. A surviving widow,  
widower, or former spouse loses  
entitlement to a survivor annuity upon  
remarrying before becoming 55 years of  
age. OPM has been required to terminate  
the survivor annuity. A recent  
amendment creates an exception to the  
termination requirement, under certain  
conditions, for marriages that have  
lasted 30 or more years. This allows  
eligibility for a survivor annuity based  
on a 30-or-more-year marriage to  
continue, and terminate only upon the  
death of the survivor annuitant (or in  
the case of a former spouse, as specified  
by the terms of the court order).

In this match, OPM will provide SSA  
with surnames, dates of birth, and  
Social Security Numbers for a sample of  
beneficiaries to identify survivor  
beneficiaries who have not reported  
remarriages to OPM and are improperly  
receiving benefits under the Civil  
Service Retirement and Federal  
Employees Retirement Systems (CSRS  
and FERS). The match will be  
conducted with SSA's Numident file, a  
source of beneficiaries' current  
surnames.

#### C. Authority for Conducting the Matching Program

5 U.S.C., Sections 8341, 8347, 8442,  
8461 and 552a (Privacy Act).

#### D. Categories of Records and Individuals Covered by the Match

The SSA file used in the match is  
contained in SSA System of Records  
09-60-0058, Master Files of Social  
Security Number holders, last published  
at 60 FR 2144, January 6, 1995. OPM's  
records consist of annuity data from its

system of records entitled OPM.Central-  
1-Civil Service Retirement and  
Insurance Records, last published in the  
**Federal Register** at 60 FR 63075,  
December 8, 1995.

#### E. Description of Matching Program

OPM will disclose to SSA the Social  
Security Numbers, dates of birth, sex  
codes, and names of beneficiaries under  
CSRS and FERS whose benefits could be  
affected by remarriage. SSA will  
identify and provide OPM with an  
extract of the Numident record for each  
record that SSA matches. OPM will only  
use those data elements pertinent to the  
purpose of the match.

#### F. Inclusive Dates of the Matching Program

This computer matching program is  
subject to review by the Congress and  
the Office of Management and Budget  
(OMB). OPM's report to these parties  
must be at least 40 days prior to the  
initiation of any matching activity. If no  
objections are raised by either Congress  
or OMB, and the mandatory 30-day  
public notice period for comment for  
this **Federal Register** notice expires,  
with no significant receipt of adverse  
public comments resulting in a contrary  
determination, then this computer  
matching program becomes effective. By  
agreement between OPM and SSA, the  
matching program will be in effect and  
continue for 18 months with an option  
to renew for 12 additional months under  
the terms set forth in 5 U.S.C.  
552a(o)(2)(D).

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40102; File No. SR-NASD-  
98-39]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Small Order Execution System Tier Size Classifications

June 19, 1998.

Pursuant to Section 19(b)(1) of the  
Securities Exchange Act of 1934  
("Act"),<sup>1</sup> notice is hereby given that on  
May 29, 1998, the National Association  
of Securities Dealers ("NASD" or  
"Association") filed with the Securities  
and Exchange Commission ("SEC" or  
"Commission") the proposed rule

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

change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 NASD is submitting this filing to effectuate The Nasdaq Stock Market, Inc.'s ("Nasdaq") periodic reclassification of Nasdaq National Market ("NNM") securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through Nasdaq's Small Order Execution System ("SOES"). Specifically, under the proposal, 520 NNM securities will be reclassified into a different SOES tier size effective July 1, 1998. Since the NASD's proposal is an interpretation of existing NASD rules, there are no language changes.

### **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 NASD 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 and copy of the Notice-to-Members may be examined at the places specified in Item IV below. The NASD 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 rule change is to effectuate Nasdaq's periodic reclassification of NNM securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through SOES. Nasdaq periodically reviews the SOES tier size applicable to each NNM security to determine if the trading characteristics of the issue have changed so as to warrant a tier size adjustment. Such a review was conducted using data as of March 31, 1998, pursuant to the following established criteria.<sup>2</sup>

<sup>2</sup>The classification criteria is set forth in NASD Rule 4613(a)(2) and the footnote to NASD rule 4710(g).

NNM securities with an average daily non-block volume of 3,000 shares or more a day, a bid price less than or equal to \$100, and three or more market makers are subject to a minimum quotation size requirement of 1,000 shares and a maximum SOES order size of 1,000 shares;

NNM securities with an average daily non-block volume of 1,000 shares or more a day, a bid price less than or equal to \$150, and two or more market makers are subject to a minimum quotation size requirement of 500 shares and a maximum SOES order size of 500 shares; and

NNM securities with an average daily non-block volume of less than 1,000 shares a day, a bid price less than or equal to \$250, and two or more market makers are subject to a minimum quotation size requirement of 200 shares and a maximum SOES order size of 200 shares.

Pursuant to the application of this classification criteria, 520 NNM securities will be reclassified effective July 1, 1998. These 520 NNM securities are set out in the NASD's Notice to Members 98-44 (June 1998).

In ranking NNM securities pursuant to the established classification criteria, Nasdaq followed the changes dictated by the criteria with three exceptions. First, an issue was not moved more than one tier size level. For example, if an issue was previously categorized in the 1,000-share tier size, it would not be permitted to move to the 200-share tier even if the reclassification criteria showed that such a move was warranted. In adopting this policy, Nasdaq was attempting to maintain adequate public investor access to the market for issues in which the tier size level decreased and help ensure the ongoing participation of market makers in SOES for issues in which the tier size level increased. Second, for securities priced below \$1 where the reranking called for a reduction in tier size, the tier size was not reduced. Third, for the top 50 Nasdaq securities based on market capitalization, the SOES tier sizes were not reduced regardless of whether the reranking called for a tier-size reduction.

##### **2. Statutory Basis**

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act.<sup>3</sup> Section 15A(b)(6) requires, among other things, that the rules of the NASD governing the operation of Nasdaq be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and

<sup>3</sup> 15 U.S.C. 78o-3.

open market. Specifically, the NASD believes that the reassignment of NNM securities within SOES tier size levels will further these ends by providing an efficient mechanism for small, retail investors to execute their orders on Nasdaq and by providing investors with the assurance that they can effect trades up to a certain size at the best prices quoted on Nasdaq.

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

The proposed rule change does not 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 Association 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 constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule and, therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>4</sup> and subparagraph (e)(1) of Rule 19b-4 thereunder.<sup>5</sup>

At any time within sixty 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.<sup>6</sup>

### **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. 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

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>5</sup> 17 CFR 240.19b-4(e)(1).

<sup>6</sup> In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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, located at the above address. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-98-39 and should be submitted by July 16, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40097; File No. SR-PCX-98-04]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Identification of Broker-Dealer Orders on the Options Floor

June 17, 1998.

#### I. Introduction

On January 23, 1998, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposed rule changes to amend PCX Rule 6.66(c), Rule 6.2, and Rule 6.77 to require the broker-dealer status of an order to be identified by public outcry to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's disseminated bid or offering price, and to add certain violations of Rule 6.66(c) as amended to the list of those violations that may cause a transaction to be nullified or adjusted. Notice of the proposal was published for comment and appeared in the **Federal Register** on February 24, 1998.<sup>3</sup> Not comment letters

were received on the proposal. On June 1, 1998, the PCX filed an amendment to the proposed rule change ("Amendment No. 1").<sup>4</sup> This order approves the Exchange's proposal. In addition, the Commission hereby publishes notice to solicit comments from interested persons on Amendment No. 1 on the proposal and approves that amendment to an accelerated basis.

#### II. Description of the Proposal

PCX is proposing to amend its rules on the identification of broker-dealer orders by requiring that, if an order is for an account in which a broker-dealer has an interest, the broker-dealer status of the order must be disclosed to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's disseminated bid or offering price.

On July 21, 1994, the Commission approved an Exchange proposal to adopt new Rule 6.66(c), which currently states: "Prior to executing an order in which a broker-dealer has an interest, a member must indicate by public outcry that such order is for a broker-dealer if the order is to be executed at the trading crowd's disseminated bid or offering price. This rule applies regardless of whether such broker-dealer is an Exchange member."<sup>5</sup> The Exchange is now proposing to expand the scope of Rule 6.66(c) by striking the words "if the order is to be executed at the trading crowd's disseminated bid or offering price" from the text of Rule 6.66(c). Accordingly, under the amended rule, prior to executing an order in which a broker-dealer has an interest, a Floor Broker would be required to indicate by public outcry that the order is for a broker-dealer.

The proposal is intended to facilitate transactions in option contracts by making the member in the trading crowd and the Order Book Official staff aware of the nature of orders being represented on the Floor, thereby assuring that broker-dealer orders will not be represented inadvertently as public customer orders. In that regard, the Exchange notes that only non-broker-dealer orders are entitled to be placed in the public limit order book and to be given priority over broker-dealer orders under certain circumstances.<sup>6</sup> The Exchange further notes that only non-broker-dealers are

entitled to receive a guaranteed minimum of 20 contracts at the disseminated bid or offering price.<sup>7</sup>

The Exchange believes their proposal will make the existing rule less complicated and easier to follow by removing the distinction between broker-dealer orders to be executed at the bid or offering price, and those that are not. In that regard, the Exchange notes that there is no such distinction applicable to Market Maker orders, the identification of which is governed by Rule 6.66(b), which requires Floor Brokers to verbally identify Market Maker orders as such prior to their execution.<sup>8</sup> Thus, removing the subject distinction from Rule 6.66(c) will make the Exchange's option rule disclosure rules uniform, consistent, and easier to follow.

The Exchange is also proposing to amend Rules 6.2 and 6.77 by adding certain violations of Rule 6.66(c) as amended to the list of those violations that may give rise to a circumstance in which two Floor Officials may nullify a transaction or adjust its terms.<sup>9</sup> Specifically, such action could be taken if a Floor Broker failed to identify a broker-dealer order for 20 contracts or less. The reason for the limitation on the number of contracts is that, under Rule 6.86, only non-broker-dealer orders are eligible for a guaranteed execution of 20 contracts at the displayed price. If a Floor Broker does not disclose that an order for 20 contracts or less is for a broker-dealer (under the proposed rule), the members in the trading crowd may incorrectly assume that the order is for a public customer and provide an execution at the displayed price, without having an opportunity to update their quotes.<sup>10</sup> The Exchange believes that adding this provision is simply a logical extension of the existing Commentary .05(v) to Rule 6.2, which permits two Floor Officials to nullify, or adjust the terms of, any order

<sup>7</sup> See PCX Rule 6.86(a).

<sup>8</sup> Rule 6.66(b) states: "A Floor Broker holding an order for the account of a Market Maker shall verbally identify the order as such prior to consummating a transaction, and shall, after effecting the trade, supply the name of the Market Maker concerned, by public outcry, upon the request of any member or members in the trading crowd."

<sup>9</sup> Specifically, the Exchange proposes to move Commentary .05 from Rule 6.2 to Rule 6.77 and renumber it as Commentary .01. The existing subparagraphs will then be relettered and a new subparagraph, (f), added to address violations of Rule 6.66(c) as amended.

<sup>10</sup> See PCX Rule 6.37(d) and Rule 6.37, Commentary .05 (Market Makers are required to make a market for, at a minimum, one contract for broker-dealer orders; they must also lower their bids or raise their offers if they do not satisfy an order in its entirety).

<sup>4</sup> Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX to Ann L. Vlcek, Division of Market Regulation, Commission, dated June 1, 1998.

<sup>5</sup> See Exchange Act Release No. 34426 (July 21, 1994), 59 FR 38497 (July 28, 1994) (order approving SR-PSE-92-14).

<sup>6</sup> See PCX Rules 6.52(a) and 6.75.

<sup>7</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> See Exchange Act Release No. 39649 (February 11, 1998), 63 FR 9276.