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 Exchange. All submissions should refer to File No. SR–NYSE–2001–17 and should be submitted by September 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44689; File No. SR–OCC–2001–08]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by The Options Clearing Corporation Relating to the Price Used in Calculating Premium Marking

August 13, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 25, 2001, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been primarily prepared by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant approval of the proposed rule change.

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

The proposed rule change would set an option's marking price for purposes of calculating premium margin at the arithmetic average of the best bid and best offer across all exchanges listing the option.

II. Self-Regulatory Organization's Statement of 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. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

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

1. Background

In November 1999, OCC proposed to change how it determines an option's marking price for purposes of calculating premium margin.[3] Specifically, OCC proposed to use the last sale price, adjusted to the bid/offer if the last sale is below/above the bid/offer. Although this rule change was recently approved, it has not been implemented.[4] While this rule change was pending, the number of options listed on more than one exchange dramatically increase and caused OCC to calculate premium margin for an options series by using the highest asked price from the option exchange with the highest transaction volume in such series. At times, this has led to noticeable jumps in marking prices when a change in the volume-leading exchange occurred. As a result, OCC reassessed the proposed last sale methodology and concluded that it might also lead to inconsistent marking as the exchange with the highest volume in an option series may not be the one on which the last sale is made. Accordingly, after consulting with the Commission's staff, OCC has determined not to use the last sale price for marking options. Rather, OCC will use an alternative methodology that it believes will yield more consistent results.

2. New Marking Methodology

To increase option pricing consistency and to improve the calculation of reasonable implied volatility curves, OCC proposes to use the arithmetic average of the best bid and the best offer across all exchanges on which the option trades as the marking price of each option series. OCC believes that this approach will improve the construction of implied volatility curves, especially for deep in-the-money and out-of-the-money options that often are quoted without a progressive variance in prices. OCC also believes that the proposed approach will reduce the likelihood of inconsistent price jumps, which are often caused by changes in the volume leading exchange. OCC understands that this proposed marking methodology is consistent with industry practices.

Specifically, OCC proposes to amend OCC Rules 601 and 602. First, OCC would nullify the recently approved changes made to Rules 601(b)(4)(A) and 602(b)(4)(A). This nullification would restore the cited rule provisions to what they were before the approval of SR–OCC–99–14. Thus, OCC will use the highest asked price for an option series from the exchange with the highest transaction volume in that series. Second, OCC would amend the cited rule provisions to reflect the new methodology for determining an option's marking price for purposes of calculating premium margin. OCC will begin using the new arithmetic average promptly when the programming changes are ready for installation. OCC will provide advance notice of implementation to the Commission and to its clearing members.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because the proposed rule change will foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

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

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[4] 17 CFR 200.30–3(a)(12).

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

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] File No. SR–OCC–99–14.

[4] Securities Exchange Act Release Nos. 43023 (July 11, 2000), 65 FR 44088 (July 17, 2000) (notice of proposed rule change); 44183 (Apr. 16, 2001), 66 FR 20343 (Apr. 20, 2001) (order approving proposed rule change).

to the proposed rule change, and none have been received.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F) [5] of the Act. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible. The Commission finds that the proposed rule change is consistent with this obligation because it will facilitate a more consistent and predictable marking price methodology for the purposes of calculating premium margin as well as providing a more accurate assessment of risk. Specifically, the rule change should enable OCC to avoid the market risk associated with volatile jumps in marking prices when a change in the volume-leading exchange occurs. Moreover, the last sale methodology might lead to inconsistent marking as the exchange with the highest volume in an option series may not be the one on which the last sale is made. Thus, the rule change should reduce OCC's market risk and therefore should help it to safeguard securities and funds in its custody or control or for which it is responsible.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because such approval will allow OCC to immediately amend its rules so that the rules accurately reflect OCC's practice of setting options' marking prices for purposes of calculating premium margin and to implement its new method of setting options marking prices as soon as its systems are ready.

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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at OCCs principal office. All submissions should refer to File No. SR–OCC–2001–08 and be submitted by September 7, 2001.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2001–08) be, and hereby is, approved on an accelerated basis.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–20770 Filed 8–16–01; 8:45 am]

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[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44680; File No. SR–PCX–00–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Expansion of Equity Hedge Exemptions From Position and Exercise Limits

August 10, 2001.

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 December 11, 2000, 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 the Exchange. 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 240.19b–4.

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

The PCX proposes to expand its current equity hedge exemptions by eliminating position and exercise limits for certain designated hedge strategies. The current reporting procedures to identify and document hedged positions would remain in place. The text of the proposed rule change is set forth below. Proposed additions are *italicized* and proposed deletions are in brackets.

* * * * *

¶4769—Position Limits

Rule 6.8(a)—No change.

Commentary:

.01–.06—No change.

.07—Equity Hedge Exemption. *The following qualified hedging transactions and positions are exempt from the established position and exercise limits prescribed under Commentary .06 above.*

(a) Where each option contract is ''hedged'' or ''covered'' by 100 shares of the underlying security or securities convertible into such underlying security, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract: (i) long call and short stock; (ii) short call and long stock; (iii) long put and long stock; (iv) short put and short stock.

(b) A long call position accompanied by a short put position, where the long call expires with the short put, and the strike price of the long call and short put is equal, and where each long call and short put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock (''reverse conversion'').

(c) A short call position accompanied by a long put position where the short call expires with the long put, and the strike price of the short call and long put is equal, and where each short call and long put position is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such stock (''conversion'').

(d) A short call position accompanied by a long put position, where the short call expires with the long put, and the strike price of the short call equals or exceeds the long put, and where each short call and long put position is hedged with 100 shares of the underlying security (or other adjusted number of shares). Neither side of the short call/long put position can be in-the-money at the time the position is established (''collar'').

(e) A long call position accompanied by a short put position with the same