SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43291; File No. SR–NASD–00–34]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Authority of the Director of Arbitration to Remove Arbitrators for Cause

September 14, 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 June 13, 2000, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''), 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 NASD Dispute Resolution. On July 28, 2000, NASD Dispute Resolution submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice of the rule change, as amended, 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

NASD Dispute Resolution proposes to amend NASD Rules 10308 and 10312 to provide authority for the Director of Arbitration (''Director'') to remove arbitrators for cause after hearings have begun. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

10000. CODE OF ARBITRATION PROCEDURE

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10308. Selection of Arbitrators

(a)–(c) Unchanged.

(d) Disqualification and Removal of Arbitrator Due to Conflict of Interest or Bias.

(1) Disqualification by Director

After the appointment of an arbitrator and prior to the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, if the Director or a party objects to the continued service of the arbitrator, the Director shall determine if the arbitrator should be disqualified. If the Director sends a notice to the parties that the arbitrator shall be disqualified, the arbitrator will be disqualified unless the parties unanimously agree otherwise in writing and notify the Director not later than 15 days after the Director sent the notice.

(2) [Authority of Director to Disqualify Ceases] *Removal by Director*

After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director['s authority to] *may* remove an arbitrator from an arbitration panel [ceases] *based on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.*

(3) Unchanged.

(e) Unchanged.

* * * * *

10312. Disclosures Required of Arbitrators and Director's Authority to Disqualify

(a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator form rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration;

(2) Any existing or past financial, business, professional, family, [or] social*, or other* relationships *or circumstances* that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships *or circumstances* that they [personally] have with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship *or circumstances* involving members of their families or their current employers, partners, or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interest*,* [or] relationships *or circumstances* described in paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator form rendering an objective and impartial determination described in paragraph (a) is a continuing duty that requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

(d) *Removal by Director*

[Prior to the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, the]

(1) The Director may remove an arbitrator based on information that is required to be disclosed pursuant to this Rule.

(2) After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director may remove an arbitrator based only on information not known to the parties when the arbitrator was selected. The Director's authority under this subparagraph (2) may be exercised only by the Director or the President of NASD Dispute Resolution.

(e) [Prior to the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, t]*T*he Director shall inform the parties to an arbitration proceeding of any information disclosed to the Director under this Rule unless either the arbitrator who disclosed the information withdraws voluntarily as soon as the arbitrator learns of any interest*,* [or] relationship*, or circumstances* described in paragraph (a) that might preclude the arbitrator from rendering an objective and impartial determination in the proceeding, or the Director removes the arbitrator.

[(f) After the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, the Director's authority to remove an arbitrator from an arbitration panel ceases. During this period, the Director shall inform the parties of any information disclosed by an arbitrator under this Rule.]

* * * * *

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

In its filing with the Commission, NASD Dispute Resolution 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. NASD Dispute Resolution has prepared summaries, set forth in Sections A, B,

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

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jean I. Feeney, Special Advisor to the President, NASD Dispute Resolution, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated July 27, 2000. In Amendment No. 1, NASD Regulation clarifies certain portions of the description of the proposed rule change and makes technical amendments to the text of the proposed rule language.

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 Code of Arbitration Procedure (''Code'') presently providezs that the authority of the Director of Arbitration to remove an arbitrator for cause ceases after the earlier of the first pre-hearing conference or the first hearing. The proposed rule change would amend the Code to eliminate this restriction, and to allow the Director to remove an arbitrator for sufficient cause shown at any juncture, where there is a challenge based on information not known to the parties at the time of the arbitrator's appointment.

2. Background and Discussion

In order to protect the integrity of the process and to ensure the impartiality of arbitrators, Rule 10312(a) requires that arbitrators make full disclosure of certain enumerated interests, relationships, and circumstances, as well as ''any circumstances which might preclude such arbitrator from rendering an objective and impartial determination.'' Prior to implementation of the Neutral List Selection System (''list selection'') in November 1998, the Code required the Director to inform the parties of information disclosed by the arbitrator at least 15 days before the first hearing. Parties were allowed one peremptory challenge and unlimited challenges for cause under Rule 10311.[4]

Under the list selection method, Rule 10311 no longer applies. Rather, Rule 10308(b)(6) requires the Director to send the parties the employment history and other background information about the arbitrators on their lists. The parties may request additional information. Then, as provided in Rule 10308(c), they may strike arbitrators from the list for any reason, and rank those who remain. The Director (or his staff)[5] consolidates the parties' lists in ranking order and, if the number of arbitrators available to serve from the consolidated list is not sufficient to fill a panel, the Director uses NLSS to extend the list and appoints one or more additional arbitrators to complete the panel. Parties receive information about any arbitrators appointed by extending the list, and have the right to object as provided in Rule 10308(d)(1), which is similar to the former challenge for cause procedure under Rule 10311.

Rule 10308(c)(4)(A) provides that the Director appoints arbitrators ''subject to availability and disqualification.'' ''Availability'' refers to the arbitrator's ability to serve on the case in the desired location during the relevant time period. ''Disqualification'' could occur either when a disqualifying fact is revealed to the Director after the parties have completed the striking and ranking process, or when the Director consults with a ranked candidate just prior to appointment and the candidate, upon hearing more case-specific information, reveals information that the Director's staff determines is a basis for disqualification. In the latter case, the Director would either drop the arbitrator or disclose the information to the parties.

Under Rule 10312(c), an arbitrator's disclosure obligation continues throughout the arbitration. If a disqualifying fact comes to light after a panel has been appointed, Rules 10308(d) and 10312(d) permit the Director to remove an arbitrator based on such information before the earlier of the first pre-hearing conference or the first hearing.[6] Once one of these events occurs, Rules 10308(d)(2) and 10312(f) specifically state that the Director's authority to remove an arbitrator ceases.

Nevertheless, Rule 10312(f) requires the Director to inform the parties of any potentially disqualifying information disclosed after the first pre-hearing or hearing session. At that point, however, a party can no longer use a challenge for cause to remove the arbitrator. Rather, the parties can only attempt to resolve the matter themselves, which can be difficult in the adversarial setting of an ongoing arbitration. The parties may agree that the arbitrator be removed, in which case the arbitration may continue with the two remaining arbitrators or a replacement may be appointed under Rule 10313. If all the parties do not agree, a party objecting to the continued service of the arbitrator may make a formal request for the arbitrator to recuse himself or herself; however, the arbitrator may decline the request. The Director may suggest that the arbitrator withdraw voluntarily, but may not remove the arbitrator.

In summary, when a for-cause objection is raised after the first pre-hearing or hearing session, the arbitrator can only be removed where (1) he or she agrees to step down, or (2) all the parties agree that the arbitrator should be removed. Failing that, an aggrieved party's only recourse is to seek judicial intervention, which increases the party's legal expenses, and which could reduce confidence in the fairness and efficiency of the arbitration process.[7]

NASD Dispute Resolution believes that an alternative dispute resolution forum should be able to resolve all issues relating to an arbitration without forcing the parties to go to court. As presently written, the Code does not permit the Director to remove an arbitrator for cause after the first pre-hearing or hearing session has commenced, no matter how egregious the circumstances. Accordingly, NASD Dispute Resolution proposes that the Code be amended to permit the Director to remove an arbitrator for cause at any time, if there is a challenge to the arbitrator based on information not known to the parties when the arbitrator was appointed. In addition, NASD Dispute Resolution proposes certain minor language changes to clarify that both relationships and circumstances must be disclosed if they fit within the criteria of Rule 10312, and that the Rule is not limited to personal relationships and circumstances of the arbitrator, as described in more detail below.

NASD Dispute Resolution believes there are four major reasons for the proposed rule change:

[4] The standard for circumstances that would be considered ''for cause'' would be the same as the general disclosure standard contained in Rule 10312: ''any circumstances which might preclude such arbitrator from rendering an objective and impartial determination.''

[5] Rule 10103 provides that the duties and functions of the director may be delegated, as appropriate.

[6] Rule 10308(d) states that either the Director or a party may object to the continued service of the arbitrator, whereas Rule 10312(d) does not indicate that a specific objection is required.

[7] In *Commonwealth Coatings Corp.* v. *Continental Casualty Co.,* 393 U.S. 145, 151 (footnote omitted) (1968), which vacated an award because of an arbitrator's failure to disclose a business relationship with one of the parties, Justices White and Marshall noted in their concurring opinion:

> The arbitration process functions best when an amicable and trusting atmosphere is preserved and there is voluntary compliance with the decree, without need for judicial enforcement. This end is best served by establishing an atmosphere of frankness at the outset, through disclosure by the arbitrator of any financial transactions which he has had or is negotiating with either of the parties. In many cases the arbitrator might believe the business relationship to be so insubstantial that to make a point of revealing it would suggest he is indeed easily swayed, and perhaps a partisan of that party. But if the law requires the disclosure, no such imputation can arise. And it is far better that the relationship be disclosed at the outset, when the parties are free to reject the arbitrator or accept him with knowledge of the relationship and continuing faith in his objectivity, than to have the relationship come to light after the arbitration, when a suspicious or disgruntled party can seize on it as a pretext for invalidating the award. The judiciary should minimize its role in arbitration as judge of the arbitrator's impartiality. That role is best consigned to the parties, who are the architects of their own arbitration process, and are far better informed of the prevailing ethical standards and reputations within their business.

The present rule is no longer necessary. The present rule language reflects a long-standing policy of the NASD and all other SROs that administer securities arbitration, that the Director may not remove an arbitrator after the hearings have commenced. In addition, the Securities Industry Conference on Arbitration (SICA) adopted an amendment to the Uniform Code of Arbitration at its meeting on March 14, 2000, which is analogous to this proposed rule change.[8] That policy was designed, in part, to eliminate any perception that member firms could influence the composition of the panel after hearings have commenced. The proposed amendment reflects the greater acceptance that arbitration now enjoys. In addition, the corporate separation of the market and regulation functions, and the spin-off of the NASD Regulation Office of Dispute Resolution as a separate company [9] increase the independence of the Director and diminish the need for the present rule.

The present rule is inconsistent with the concept of administered arbitration. NASD Dispute Resolution offers an ''administered'' arbitration system, in that the parties submit their dispute to NASD Dispute Resolution for complete administration of the dispute, from filing a claim to issuance of an award. One of the key benefits of administered arbitration is the ability to have all ancillary issues relating to the arbitration—such as removal of arbitrators for cause—resolved without recourse to the courts. Moreover, the present rule is inconsistent with the approaches of other major dispute resolution forums, such as the American Arbitration Association (''AAA'') [10] and JAMS,[11] whose rules permit the administering organization to remove an arbitrator for cause at any time in the arbitration process.

The present rule invites delay and administrative disruption. The present rule invites delays in the process, while parties wrestle with the issue of for-cause challenges to sitting arbitrators, and perhaps seek judicial intervention. In the NASD Dispute Resolution forum, there have been situations in which viable for-cause challenges were raised after the Director's authority to remove arbitrators ceased. Under current rules, the Director would be unable to rule on the merits of such challenges, despite clear substantive grounds supporting removal, and the prevailing party would be subject to the risk of having the award vacated on grounds of evident partiality. [12]

The arbitrator should not be the only source of information. Rule 10312 of the Code can be interpreted to limit the Director's authority to challenges based on information disclosed by the arbitrator under that rule. This could prevent the Director from entertaining a challenge based on information, obtained from some other source, that should have been disclosed by the arbitrator. Consistent with the rules of other dispute resolution forums, NASD Dispute Resolution proposes to amend the Code to permit the Director to entertain for-cause challenges based on sources in addition to the arbitrator. Therefore, the proposed changes would allow the Director to remove an arbitrator based on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.

Some users of the arbitration forum may be concerned about giving more power to NASD Dispute Resolution staff to remove arbitrators who were selected by the parties. To address that concern, the proposed rule change provides that the only persons who can remove arbitrators under the proposed amendments will be the Director and the President (following the spin-off), to whom he reports. This authority cannot be delegated. In addition, as discussed above, removal can only be based on information that was required to be disclosed pursuant to Rule 10312 and that was not known to the parties at the time the arbitrator was appointed.

b. Description of Proposed Amendments

NASD Dispute Resolution proposes to amend Rule 10308, the list selection rule, to provide that the authority of the Director to disqualify or remove arbitrator does not end when the first pre-hearing or hearing session begins. Rather, proposed Rule 10308(b)(2) provides that, after that first session, the Director may remove an arbitrator from an arbitration panel based on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.

NASD Dispute Resolution proposes to amend Rule 10312, the arbitrator disclosure rule, in several places. NASD Dispute Resolution proposes to amend Rule 10312(a)(2) to include any existing or past financial, business, professional, family, social, or other relationships or circumstances that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. NASD Dispute Resolution proposes to delete the word ''personally'' from Rule 10312(a)(2), as it might be read too narrowly, and to add the phrase ''or circumstances'' to paragraphs (b) and (e) of Rule 10312. This will clarify that the arbitrator is required to disclose *any* relationships or circumstances that might fit under Rule 10312. [13]

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[8] Section 11 of the Uniform Code of Arbitration, Disclosures Required by Arbitrations, was revised to read as follows:

(e) Once the hearings have commenced, the Director may remove an arbitrator based only on information required to be disclosed under subsection (a), not known to the parties when the arbitrator was selected. The Director's authority under this subsection (e) may not be delegated.

[9] *See* Exchange Act Release No. 41971 (Sept. 30, 1999) (File No. SR–NASD–99–21), 64 FR 55793 (Oct. 14, 1999), which approved creation of a new dispute resolution subsidiary, NASD Dispute Resolution, Inc. That subsidiary began operations on July 9, 2000.

[10] The *Commercial Dispute Resolution Procedures* of the AAA (January 1, 1999), provides as follows:

R–19. Disclosure and Challenge Procedure

(a) Any person appointed as a neutral arbitrator shall disclose to the AAA any circumstance likely to affect impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Upon receipt of such information from the arbitrator or another source, the AAA shall communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others.

(b) Upon objection of a party to the continued service of a neutral arbitrator, the AAA shall determine whether the arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

[11] The *Procedures for Securities Arbitrations Administered by JAMS Under the Securities Industry Conference on Arbitration Non-SRO Pilot Program* (Website visited June 1, 2000) http://www.jamsadr.com/arbitrationrules/securitiesarab.htm#13. Disclosure, provide:

Section 13. Disclosure and Challenge Procedure

Any person appointed as an arbitrator must disclose to JAMS any circumstance likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Upon receipt of such information from the arbitrator or other source, JAMS will communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others. Upon objection of a party to the continued service of an arbitrator, JAMS will determine whether the arbitrator should be disqualified and will inform the parties of its decision, which will be conclusive.

[12] Under the Federal Arbitration Act, courts may vacate arbitration awards for, among other reasons, ''evident partiality or corruption in the arbitrators.'' 9 U.S.C. Sec. 10(a)(2). *See e.g., Wages* v. *Smith Barney Harris Upham & Co.,* 937 P.2d 715 (Ariz. Ct. App. 1997), in which the court vacated an award to investors of $950,000 plus costs and fees, where the chair of an arbitration panel declined to rescue himself after it was learned that he had represented claimants in a similar matter against a predecessor of the respondent firm; the court found that the arbitrator's later harsh rulings against respondent showed evident partiality. *See also Schmitz* v. *Zilveti et al.,* 20 F.3d 1043, 1049 (9th Cir. 1994) (''A finding of evident partiality in one arbitrator generally requires vacatur of the arbitration award.'').

[13] The deletion of the word ''personally'' was also made to the Uniform Code of Arbitration at SICA's

Continued

NASD Dispute Resolution also proposes to amend Rule 10312 to provide, as in Rule 10308, that the Director's authority to remove arbitrators does not cease with the first pre-hearing or hearing session. There are two restrictions on the exercise of this authority, however, once such sessions have begun. Proposed Rule 10312(d)(2) provides that, after the earlier of the first pre-hearing conference or the first hearing, the Director may remove an arbitrator based only on information not known to the parties when the arbitrator was selected. This provision is intended to prevent parties from raising challenges late in the process which could have been raised at the outset. Rule 10312(d)(2) also will provide that the Director's authority under this subparagraph may only be exercised by the Director or by the President of NASD Dispute Resolution. [14]

Finally, NASD Dispute Resolution proposes to amend Rule 10312(e) consistently with the above changes, to delete language limiting the time within which the Director may remove arbitrators for cause; and Rule 10312(f) is deleted as no longer necessary in light of the proceeding changes.

2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[15] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change will protect the public interest by providing a procedure to remove an arbitrator for sufficient cause shown at any time in an arbitration, where the challenge is based on information not known to the parties at the time of the arbitrator's appointment.

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

NASD Dispute Resolution does not believe that the proposed rule change will result in any burden on competition that it 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

Written comments were neither solicited nor received.

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 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 NASA. All submissions should refer to File No. SR–NASD–00–34 and should be submitted by October 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–24389 Filed 9–21–00; 8:45 am]

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March 14, 2000 meeting. *See supra* note 8. The word ''addition'' was removed from this sentence and replaced with the word ''deletion.'' Telephone conversation between Jean I. Feeney, Special Advisor to the President, NASD Dispute Resolution, and Joseph Corcoran, Attorney, Division, Commission, on September 14, 2000.

[14] Id.

[15] 15 U.S.C. 78*o*–3(b)(6).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43293; File No. SR–PCX–99–36]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to Options Trading Rules

September 14, 2000.

I. Introduction

On October 1, 1999, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commissiion''), 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 modify its options trading rules. Amendment No. 1 was filed with the Commission on March 28, 2000.[3] The proposed rule change was published for comment in the **Federal Register** on April 4, 2000.[4] No comments were received on the proposal. This order approves the proposal, as amended.

II. Description of the Proposal

The proposed rule change would make the following changes to the text of the PCX rules on options trading.

A. Definition of Term ''Option Issue''

The proposal would adopt new Rule 6.1(b)(12) to define the term ''option issue'' as ''the option contract overlying a particular underlying security.'' The Exchange notes that the commonly-used term ''issue'' appears in several locations in the PCX Rulels.[5] The Exchange believes that the term ''issue'' means the same as ''option'' or ''option contract'' when used, for example, as in PCX Rule 6.65(a), which states: ''Trading on the Exchange in any *option contract* shall be halted or suspended

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

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange withdrew the proposed changes to PCX Rule 6.6 because the changes were previously made and approved in Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999). *See* letter from Michael D. Pierson, Director-Regulatory Policy, PCX, to Heather Traeger, Attorney, Division of Market Regulation, SEC, on March 27, 2000 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 42590 (March 29, 2000), 65 FR 17690.

[5] *See, e.g.,* PCX Rule 6.8 Com. .08(a) (''If a firm desires to facilitate customer orders in the XYZ option *issue* * * *.''); PCX Rule 6.28(a)(9) (''the permissible size of orders that may be automaticallay executed'' may be increased ''in a particular *issue*, or for all option *issues.*'' * * *''); PCX Rule 6.82(e) (''[t]he allocation of option *issues* to LMMs shall be effected by the Options Allocation Committee.'' * * *'').