

**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"),¹ 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

¹ 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.²

² 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.³ 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

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 Act⁴ and subparagraph (e)(1) of Rule 19b-4 thereunder.⁵

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.⁶

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

⁴ 15 U.S.C. 78s(b)(3)(A)(i).

⁵ 17 CFR 240.19b-4(e)(1).

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

³ 15 U.S.C. 78o-3.

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.⁷

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")¹ and Rule 19b-4 thereunder,² 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, 1998.³ 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").⁴ 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."⁵ 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.⁶ 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.⁷

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.⁸ 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.⁹ 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.¹⁰ 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

⁷ See PCX Rule 6.86(a).

⁸ 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."

⁹ 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.

¹⁰ 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).

¹ 17 CFR 200.30-3(a)(12).

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ See Exchange Act Release No. 39649 (February 11, 1998), 63 FR 9276.

⁵ Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX to Ann L. Vlcek, Division of Market Regulation, Commission, dated June 1, 1998.

⁶ See Exchange Act Release No. 34426 (July 21, 1994), 59 FR 38497 (July 28, 1994) (order approving SR-PSE-92-14).

⁷ See PCX Rules 6.52(a) and 6.75.