III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW. Washington, D.C. 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 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 Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-95-10 and should be submitted by [insert date 21 days from date of publication],

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular with the requirements of Section 6 7 of the Act. In particular, the proposal is consistent with the Section 6(b)(5) 8 requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and in general, to protect investors and the public interest.

In recent years, the self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the liquidation of stock positions related to trading strategies involving index derivative products. For instance, since 1986, the NYSE has utilized auxiliary closing procedures on expiration days. These procedures allow NYSE specialists to obtain an indication of the buying and selling interest in MOC orders at expiration and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice thereof and with an opportunity to make

appropriate investment decisions in response. Based on the NYSE's experience,⁹ the Commission believes that the MOC order handling requirements work relatively well and may result in more orderly markets at the close on expiration days.

In today's highly competitive market environment, however, it is possible that a regional exchange, which trades NYSE-listed stocks but does not have comparable closing procedures, could be utilized by market participants to enter MOC orders prohibited on the NYSE. Although the Commission has no reason to believe that the BSE market has become a significant alternative market to enter otherwise prohibited MOC orders, the Commission agrees with the BSE that, if this possibility were realized, it could have a negative impact on the fairness and orderliness of the national market system. 10 Accordingly, the Commission believes that it is reasonable for the BSE to adopt procedures for the handling of MOC orders that mirror the NYSE's, thereby ensuring the equal treatment of orders in both markets and, in the event of unusual market conditions, offering the BSE the same benefits in terms of potentially reducing volatility.

In this regard, the Commission notes that the proposed rule change will standardize the BSE's closing procedures on expiration days with those on the NYSE.11 Specifically, on expiration days, the BSE proposal will impose a 3:40 p.m. deadline for entry of all MOC orders. In conjunction with the prohibition on cancellation or reduction of any MOC order after 3:40 p.m., this requirement should allow the specialist to make a timely and reliable assessment, for every stock, of MOC order flow and its potential impact on the closing price. While the Commission recognizes that 3:40 p.m. is relatively near the close, the Commission previously has determined that such a deadline strikes a reasonable balance between the need to effectuate an orderly closing and the need to avoid unduly infringing upon legitimate trading strategies. 12

The amended procedures for expiration days will continue to require that, as soon as practicable after 3:40 p.m., BSE specialists disseminate substantial imbalances in the pilot stocks. Thereafter, no MOC orders may be entered except to offset a published imbalance in a pilot stock. In this regard, the BSE pilot program combines early submission of MOC orders with prompt dissemination of imbalances that reflect actual investor interest. As noted in prior Commission orders approving these procedures, 13 the BSE should have sufficient opportunity to attract any contra-side interest necessary to alleviate substantial MOC order imbalances in the pilot stocks and to dampen their effect on the closing price.

In addition, under the proposed rule change, the BSE will adopt MOC order handling requirements for nonexpiration days that are substantially similar to those in place for expiration days. This will allow members and member organizations to follow comparable procedures at the close on all trading days. Although there is less likelihood of an influx of MOC orders at the close of non-expiration days, certain trading and asset allocation strategies could employ MOC orders. The 3:50 p.m. deadline for MOC order entry and cancellation, as well as the requirement to disseminate MOC orders consisting of 50,000 shares or more as soon as practicable after 3:50 p.m., on nonexpiration days should help the specialist make a timely and reliable assessment of MOC order flow and its potential impact on the closing price and also should ensure that any imbalance publications reflect actual investor interest. In the Commission's opinion, a 3:50 p.m. deadline strikes a more appropriate balance for nonexpiration days (as opposed to the 3:40 p.m. deadline for expiration days) given the reduced likelihood of substantial MOC order imbalances due to derivatives-related trading strategies.

In the event of unusual market conditions, the Commission believes that the amended procedures for non-expiration days will offer benefits in terms of assessing volatility at the close of trading in the same manner as the BSE's procedures for expiration days. Additionally, the Commission notes that, by permitting a Floor Official to authorize the publication of substantial MOC order imbalances on non-expiration days in any stock, the proposal should increase the information available to market participants and provide BSE specialists

⁷15 U.S.C. 78f.

^{8 15} U.S.C. 78f(b)(5).

⁹The NYSE has submitted to the Commission several monitoring reports describing its experience with the auxiliary closing procedures. For further discussion of the NYSE's results, *see* Securities Exchange Act Release No. 34916 (October 31, 1994), 59 FR 55507.

¹⁰ For example, if MOC orders prohibited on the NYSE were entered instead on the BSE, unusually large MOC order imbalances on the regional exchange could contribute to overall market volatility.

 $^{^{11}\,\}mathrm{See}$ Securities Exchange Act Release No. 35589 (April 10, 1995), 60 FR 19313.

 $^{^{12}}$ See, e.g., Securities Exchange Act Release No. 33639 (February 17, 1994), 59 FR 9295.

¹³ See 1994 Pilot Approval Order, supra, note 5.