

rule 602 and will be included in the non-equity securities clearing fund.

When no such designation is made, they will be subject to the margin requirements of Rule 601. Stock fund options that do not correlate closely with any index will continue to be treated like stock options for margin purposes and will not be used to offset short positions relating to a particular index. However, under Rule 601(c) and Interpretation .02 to Rule 601, 30% of their value can be used to reduce a clearing member's equity margin requirement. Such stock fund options will be included in the stock clearing fund because they fall within the definition of "stock option contract" in Article 1 of OCC's By-Laws, which would be controlling in the absence of a designation. OCC intends to provide members its designation of the stock fund options for margin and clearing fund purposes in information memoranda made available to all clearing members.

Under the proposed rule change, OCC will amend the definition of "stock option contract" within the definition of "option contract" in Article 1 of the By-Laws to include stock fund shares. In addition, a provision will be added to the definition stating that for purposes of Article VIII of the By-Laws and Chapters VI and X of the Rules, OCC may designate certain stock fund options as non-equity securities option contracts. OCC is also adding introductions to Article VIII of the By-Laws and Chapters VI and X of the Rules which state that OCC may designate certain stock fund options as non-equity securities options contracts for purposes of those provisions. Finally, because fund shares are priced like stocks, new subsection (b)(6)(1) will be added to Rule 602 to define "marking price" for an index share to be its last reported sale price on its primary market.

OCC believes that the proposed rule changes are consistent with the requirements of the Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder because it promotes the prompt and accurate clearance and settlement of transactions in stock fund options by allowing OCC to treat such options like stock options for settlement purposes but like non-equity options for margin and clearing fund purposes, as appropriate.

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

OCC does not believe that the proposed rule change would impose any material impact 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 to the proposed rule change, and none have been received.

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

Section 17A(b)(3)(F) of the Act<sup>6</sup> requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which 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 should allow OCC to more accurately calculate the margin and clearing fund collateral required to be deposited by clearing members.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice will allow OCC to immediately increase the accuracy of margin and clearing fund calculations for these hybrid exchange-traded fund share options.

### **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 also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-99-02 and should be submitted by July 23, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-OCC-99-02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41555; File No. SR-PCX-99-16]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Requirement for Off-Floor Traders for Which the Exchange Is the Designated Examining Authority To Successfully Complete the General Securities Representative Examination Series 7**

June 24, 1999.

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> notice is hereby given that on June 1, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") 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.

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

The Exchange proposes to require that qualified off-floor traders for which the PCX is the designated examining authority ("DEA") successfully complete the General Securities Representative Examination Series 7 ("Series 7 Exam"). The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 204.19b-4.

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

## 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 Exchange 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 III below and is set forth in Sections A, B, and C below.

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

#### 1. Purpose

##### *Series 7 Exam Requirement*

PCX Rule 1.7(b)(9) currently provides that the Exchange may deny (or may condition) membership, or may prevent a natural person from becoming associated (or may condition an association) with a member, when an applicant, directly or indirectly, does not successfully complete such written proficiency examinations as required by the Exchange to enable it to examine and verify the applicant's qualifications to function in one or more of the capacities applied for. The Exchange is now proposing to amend PCX Rule 1.7(b)(9) to expressly require designated off-floor traders to successfully complete the Series 7 Exam. Specifically, the proposal provides that traders of member organizations for which the Exchange is the DEA must successfully complete the Series 7 Exam if the primary business of the member organization involves the trading of securities which is unrelated to the performance of the functions of a registered specialist, a registered market maker or a registered floor broker. The proposal further provides that the following are exempt from the requirement to successfully complete the Series 7 Exam: Exchange members who perform the function of a registered specialist, registered market maker or registered floor broker (pursuant to PCX Rules 5.27(a), 6.33 or 6.44, respectively) and associated persons of member firms who facilitate the execution of stock transactions for the accounts of options market makers.

For purposes of PCX Rule 1.7(b)(9), the term "trader" is defined as a person who is directly or indirectly compensated by an Exchange member organization and who trades, makes trading decisions with respect to, or otherwise engages in the proprietary or agency trading of securities. In addition, the term "primary business" is defined

as greater than 50% of the member organization's business. The Exchange notes that registered specialists, registered market makers and registered floor brokers are required to pass written examinations of the Exchange pursuant to PCS Rules 5.27(c), 6.33 and 6.44, respectively.<sup>3</sup>

##### *Attestation Requirement*

The proposed rule change further provides that each member organization for which the Exchange is the DEA must complete, on an annual basis, and on a form prescribed by the Exchange, a written attestation as to whether the member organization's primary business is performing the function of a registered specialist, a registered market maker or a registered floor broker (pursuant to PCX Rules 5.27(a), 6.33 or 6.47, respectively).

##### *Rule Application to Current Traders*

Subsection (C) of the proposed rule provides that the requirement to complete the Series 7 Exam will apply to current Traders of member organizations that meet the criteria of subsection (A), above, as well as to future Traders of member organizations that meet the criteria of subsection (A), above, at a later date. It further provides that Traders of member organizations that meet the criteria of subsection (A), above, at the time of SEC approval of this Rule, must successfully complete the Series 7 Exam within six months of notification by the Exchange.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>4</sup> of the Act, in general, and further the objectives of Section 6(b)(5),<sup>5</sup> in particular, in that it is designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>3</sup> The Exchange notes that other exchanges have recently adopted (or have proposed to adopt) a similar Series 7 Exam requirement for off-floor traders. See Chicago Stock Exchange Rules, Art. VI, Rule 3, Interpretation and Policy .02; Securities Exchange Act Release No. 41306 (April 16, 1999), 64 FR 22665 (April 27, 1999) (notice of filing of proposed rule change of the Philadelphia Stock Exchange).

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change 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 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-99-16 and should be submitted by July 23, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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<sup>6</sup> 17 CFR 200.30-3(a)(12).