

submissions should refer to File No. SR-PCX-99-13 and should be submitted by November 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Release No. 34-42041; File No. SR-PCX-99-31]

Self-Regulatory Organization; Noticed of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Cross-Only Contingency Orders

October 20, 1999.

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 August 25, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("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 PCX is proposing to amend its rules to permit Floor Brokers to represent orders with a "cross-only" contingency. The text of the proposed rule change is set forth below. Addition are italicized.

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PACIFIC EXCHANGE, INC. RULES TRADING PRACTICES AND PROCEDURES

¶4987 "Crossing" Orders

Rule 6.47

(a)-(c)—No change.

Cross-Only Contingency Orders

(d) *A Floor Broker who holds cross-only orders as defined in rule 6.62(c)(3) may cross those orders by proceeding in the following manner: Prior to representing the orders in the trading crowd, the floor Broker must make the crowd aware of the total number of*

contracts the Floor Brokers wishes to cross, the order are to executed on a cross-only basis, the price at which the Floor Broker wishes to cross the orders, and the name of the clearing member or members through whom the transaction will clear. The price must be or within the bid or offer.

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¶5061 Certain Types of Orders Defined

Rule 6.62

(a)-(b)—No change.

(c) Contingency Orders.—No change.

(12)-(2)—No change.

(3) *Cross-Only Orders. A cross-only order is a contingency order that is to be executed in whole in equity options only, the amount determined by the Member Organization Placing the order, in a cross transaction with an order for another customer or the Member Organization itself. If the trading crowd does not allow the cross to take place, the Member Organization placing the order may withdraw it from consideration by the trading crowd.*

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¶5127 Manner of Bidding and Offering

Rule 6.73

No change.

Commentary:

.01 Notwithstanding the above provision that all bids and offers must be general ones, a Floor Broker may represent orders with a cross-only contingency as defined in Rule 6.62.

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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 PCX 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 Exchange 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 PCX proposes to amend certain Exchange Rules to permit a Member Organization to enter and a Floor Broker to represent orders with a cross-only contingency. The purpose of the proposed rule change is to allow a Floor Broker to disclose to the trading crowd,

prior to execution, that the Floor Broker wishes to cross two orders for a certain number of contracts, at a certain price within or at the quoted bid or offer. The Floor Broker must also disclose, prior to execution, the name of the clearing member or members through whom the transaction will clear. If the crowd does not permit the Floor Broker to do this, then the cross-only contingency provides that the Member Organization placing the orders may withdraw the orders, as if they never existed in the trading crowd. The two orders the Floor Broker holds to cross under this contingency may be two customer orders or orders between a customer and the firm itself. There are no restrictions on who the customer may be, e.g., a customer could be a Market Maker, broker-dealer, or a public customer. The cross would be effected at or between the bid and offer. A cross-only order is defined to include only equity options orders that are to be executed in whole.

The Exchange believes that by allowing for the cross-only contingency, the Exchange will help to develop customer business and will expedite crosses yielding a similar result to what occurs on the floor currently, although currently it is done in a much more circuitous route. With the current competition in the marketplace, the Exchange believes that by providing the cross-only contingency more firms will want to bring business to the PCX, since the firm will have the ability to take the order elsewhere if the crowd does not allow the cross.

Although Exchange Rules currently allow a similar result as the cross-only contingency, it is much more cumbersome. The proposed rule change provides that the Floor Broker may make the crowd aware in advance of the number of contracts the Floor Broker wishes to cross; the price at which the cross would take place, at or between the quoted prices; the customer "give up" information;³ and if the crowd bars the cross from taking place, the Member Organization may withdraw the orders. As the rules stand currently, a Floor Broker does not disclose in advance that he or she is holding two orders to cross; the Floor Broker must bid above the highest bid or offer below the lowest offer in the open market; if the bid or offer is not taken by the crowd, then the Floor Broker may cross at the higher bid or lower offer.⁴ The difference in result between the proposed Rule and the current Rule is not substantial; however it is a much quicker result since the Floor Broker will know immediately

¹³ 17 CFR 200.30-3(A)(12).

¹⁴ 15 U.S.C. 78s(b)(2).

² 17 CFR 240.19b-4.

³ See PCX Rule 6.66(a).

⁴ See PCX Rule 6.47(a).

whether the trading crowd will allow the cross to take place, and the Member Organization placing the order may withdraw it if the cross is not allowed by the crowd.⁵

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)⁶ of the Act, in general, and further the objectives of Section 6(b)(5),⁷ in particular, in that they are designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

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

The PCX 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.

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

No written comments were solicited or received with respect to the proposed rule change.

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 Exchange 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.

⁵ The Exchange notes that a substantially similar proposal of the Chicago Board Options Exchange ("CBOE") has been noticed for public comment in the **Federal Register**. See Securities Exchange Act Release No. 41610 (July 8, 1999), 64 FR 38495 (July 16, 1999). The PCX proposal differs from the CBOE proposal in two procedural respects: First, unlike the CBOE proposal, the PCX rule change will require that the floor broker disclose, prior to the transaction, the name of the clearing member or members through whom the transaction will clear. This is the same information that floor brokers must currently "give up" pursuant to PCX Rule 6.66(a). See proposed PCX Rule 6.47(d). Second, the PCX proposal covers orders that are to be executed in whole, while the CBOE proposal covers orders that are to be executed in whole or in part. See proposed PCX Rule 6.62(c)(3).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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. In particular, the Commission seeks comment on whether the proposed rule change will result in fair executions for the various orders and parties represented in the crossing transaction. Also, commenters are requested to provide their views on this rule revision in light of the proposed rule change contained in SR-PCX-99-18, relating to facilitation crosses.⁸ 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 the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR-PCX-99-31 and should be submitted by November 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42028; File No. SR-Phlx-99-31]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Require Exchange Members and Member Organizations to Provide Reports and Other Information Relating to Year 2000

October 18, 1999.

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 August 25, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. On October 1, 1999, the Phlx filed Amendment No. 1 to the proposal with the Commission.³ The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

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

The Phlx proposes to amend Exchange Rule 650, Mandatory Participation in Year 2000 Testing, to require members and member organizations to submit all reports, documents or other information relating to Year 2000 readiness or to the century date change as the Exchange may request. Currently, the rule mandates that members and member organizations are to participate in Year 2000 related testing and are to provide to the Exchange reports related to such testing.

The new clause in Phlx Rule 650 would also require members and member organizations to provide all reports and other documents relating to the Year 2000 century date change as requested by the Exchange. It would thus permit the Exchange to sanction, where appropriate, members and member organizations who do not respond reasonably promptly to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Richard S. Rudolph, Counsel, Phlx, to Heidi E. Pilpel, Special Counsel, Division of Market Regulation, Commission, dated October 1, 1999 (Amendment No. 1). The substance of Amendments No. 1 is incorporated into the notice and order.

⁸ See Securities Exchange Act Release No. 41867 (September 13, 1999), 64 FR 51171 (September 21, 1999).

⁹ 17 CFR 200.30-3(a)(12).