

change become operative immediately upon the date of filing, December 28, 1999. At any time within 60 days of the filing of the 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.

#### 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 submissions, 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 persons, 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-99-52 and should be submitted by January 28, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

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

[FR Doc. 00-388 Filed 1-6-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42301; File No. SR-PCX-99-25]

### Self Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change To Allow Lead Market Makers To Perform Certain Floor Broker Functions

December 30, 1999.

#### I. Introduction

On July 13, 1999, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to allow PCX Lead Market Makers ("LMM"s) to perform certain Floor Broker Functions. Notice of the proposed rule change was published in the **Federal Register** on September 21, 1999.<sup>3</sup> No comments were received on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The proposed rule change modifies the Exchange's current rules<sup>4</sup> to allow an LMM to perform certain Floor Broker functions in addition to Order Book Official ("OBO") and Market Maker functions. Under the proposed changes, an LMM acting as a Floor Broker will be required to use due diligence and perform all other obligations of Floor Brokers pursuant to PCX Rules 6.43 through 6.48. An LMM will be permitted, but will not be obligated, to accept non-discretionary orders that are not eligible to be placed in the Public Order Book, and will be permitted to represent such orders as a Floor Broker. An LMM will not be permitted to represent discretionary orders, whether as a Floor Broker or otherwise, and all orders in the LMM's possession that are eligible to be booked will be required to be booked.

#### III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the Commission

believes that the proposed rule change is consistent with the Section 6(b)(5)<sup>5</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest.<sup>6</sup> The Commission also finds that the proposal may serve to remove impediments to and perfect the mechanism of a free and open market by enabling Exchange LMMs to better serve customers.

The LMM system at the PCX was first approved, on an eighteen-month pilot basis, in 1990.<sup>7</sup> After granting a number of extensions to the pilot,<sup>8</sup> the Commission approved the program on a permanent basis on September 22, 1997.<sup>9</sup> The LMM program was created originally to enhance the ability of the Exchange to compete in a multiple trading environment, and was designed primarily for new option issues and option issues with comparatively low volume. Subsequently, all equity and index options traded on the PCX were made eligible for the LMM program.<sup>10</sup>

Exchange members appointed as LMMs assume responsibilities and acquire rights in their appointed options classes that extend beyond the obligations and rights of Market Makers who trade in the same options issue. In addition to performing the regular obligations of a Market Maker, an LMM must assume certain additional obligations that are designed to strengthen the LMM's market making activities.

Pursuant to PCX Rule 6.82, "Lead Market Maker," each LMM is responsible for, among other things: assuring that disseminated market quotations are accurate; honoring guaranteed markets; determining the formula for generating automatically updated market quotations; being present at the designated trading post throughout each trading day; effecting, with respect to trading as a Market

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

<sup>6</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> See Securities Exchange Act Release No. 27631 (January 17, 1990), 55 FR 2462 (January 24, 1990).

<sup>8</sup> See Securities Exchange Act Release Nos. 31063 (August 21, 1992), 57 FR 39255 (August 28, 1992); 31635 (December 22, 1992), 57 FR 62414 (December 30, 1992); 33854 (April 1, 1994), 59 FR 16873 (April 8, 1994); 34710 (September 23, 1994), 59 FR 50306 (October 3, 1994); 36293 (September 28, 1995), 60 FR 52243 (October 5, 1995); and 37767 (September 30, 1996), 61 FR 52483 (October 7, 1996).

<sup>9</sup> See Securities Exchange Act Release No. 39111 (September 22, 1997), 62 FR 51710 (October 2, 1997).

<sup>10</sup> See Securities Exchange Act Release No. 37780 (October 3, 1996), 61 FR 53247 (October 10, 1996).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 41868 (September 13, 1999), 64 FR 51173.

<sup>4</sup> See PCX Rule 6.82, "Lead Market Makers," and PCX Rule 6.83, "Limitations on Dealings of Lead Market Makers."

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

Maker, trades that have a high degree of correlation with the overall pattern of trading of each series in the option issues involved; participating in the automatic execution system; actively promoting the Exchange as a marketplace; and responding to competition by offering competitive markets and competitively priced services. Subject to certain exceptions, LMMs receive a guaranteed 50% participation in transactions occurring on their disseminated bids and offers in their appointed issues.

Since its inception, the LMM position at the PCX has been designed to incorporate some of the functions performed by Designated Primary Market Makers ("DPM"s) at the Chicago Board Options Exchange ("CBOE"). Under the original LMM system at PCX, however, an LMM—unlike a DPM—was not authorized to manage the public limit order book ("the Book") or perform certain Floor Broker functions.<sup>11</sup>

The PCX has in recent years sought to broaden the privileges of its LMMs to make its LMM system more competitive with similar systems at other options exchanges. In October 1996, the Commission approved a PCX pilot program that allowed a number of LMMs to perform the functions of the PCX OBO (*i.e.*, manage the Book) in certain designated options issues.<sup>12</sup> Participating LMMs were required to resolve trading disputes and errors, set rates for Book execution, and disclose Book information to members upon request. The pilot was subsequently extended and expanded to allow all LMMs to participate as OBOs.<sup>13</sup> In October 1998 this facet of the LMM system was permanently approved by the Commission.<sup>14</sup>

The PCX now seeks to further revise PCX Rule 6.82 to permit its LMMs to act as Floor Brokers, in addition to performing OBO and Market Maker functions. Floor Brokers are registered with the Exchange and are permitted to accept and execute options orders received on behalf of members while on the Exchange floor.

The PCX has proposed this rule change for competitive reasons. Specifically, the PCX believes that the proposed changes will afford its LMMs additional flexibility so that they can better compete with DPMs and specialists on other national securities exchanges.<sup>15</sup> The PCX also believes that the proposed changes will allow its LMMs to provide customers with a greater level of service and enable the LMMs to offer more competitive rates for the execution of customer orders.

Under the proposal, an LMM will be permitted, but will not be obligated, to accept non-discretionary orders that are not eligible to be placed in the Book,<sup>16</sup> and will be permitted to represent such orders as a Floor Broker. In handling an order as a Floor Broker, an LMM will be obligated to use due diligence to execute the order at the best available price, in accordance with the rules of the Exchange,<sup>17</sup> and will be further subject to all other obligations of Floor Brokers

specified in PCX Rules 6.43 through 6.48.

At the same time, the proposal places restrictions on the types of orders that an LMM may represent as a Floor Broker, consistent with applicable rules of competing exchange.<sup>18</sup> An LMM will not be permitted to represent discretionary orders, whether as a Floor Broker or otherwise. In addition, all orders in the LMM's possession that are eligible to be booked will be required to be booked.

The Commission finds that the proposed rule change is an appropriate expansion of the functions performed by LMMs. The proposal implements a system that has been in place at other exchanges, and is likely to enhance trading at the PCX. It provides a further incentive for Market Makers to become LMMs, and thus may add depth and liquidity to PCX-listed issues. The ability of LMMs to serve as Floor Brokers should also afford LMMs greater flexibility in responding to varying market conditions, and enable them to improve service to PCX customers by offering competitive service rates. Finally, by placing LMMs on a similar footing as DPMs and specialists at other options exchanges, the proposal should encourage further competition among the exchange markets.

#### IV. Conclusion

*It is Therefore Ordered*, pursuant to Section 19(b)(2)<sup>19</sup> of the Act, that the proposed rule change (SR-PCX-99-25) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

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

[FR Doc. 00-389 Filed 1-6-00; 8:45 am]

BILLING CODE 8010-01-M

<sup>11</sup> These functions were accorded to DPMs at the CBOE from the beginning of the DPM program at that exchange. See Securities Exchange Act Release No. 24934 (September 22, 1987), 52 FR 36122 (September 25, 1987) (first approving the CBOE DPM program and depicting the DPM as a position "akin to a specialist").

<sup>12</sup> See Securities Exchange Act Release No. 37810 (October 11, 1996), 61 FR 54481 (October 18, 1996).

<sup>13</sup> See Securities Exchange Act Release Nos. 38462 (April 1, 1997), 62 FR 16886 (April 8, 1997); 39106 (September 22, 1997), 62 FR 51172 (September 30, 1997); 39667 (February 13, 1998), 63 FR 9895 (February 26, 1998); 40020 (May 21, 1998), 63 FR 29286 (May 28, 1998); and 40328 (August 17, 1998), 63 FR 45276 (August 25, 1998).

<sup>14</sup> See Securities Exchange Act Release No. 40548 (October 14, 1998), 63 FR 56283 (October 21, 1998). Until recently, the Exchange required participating LMMs to use Exchange personnel to assist the LMM in performing the OBO function, for which the Exchange charged the LMM a staffing fee. In July 1999, the Commission approved a rule change allowing qualified LMMs to manage their own employees in operating the Book. See Securities Exchange Act Release No. 41595 (July 2, 1999), 64 FR 38064 (July 14, 1999).

<sup>15</sup> The proposed rule change will generally allow LMMs on the PCX to perform the same functions that DPMs on the CBOE may perform. See CBOE Rule 8.80(c).

<sup>16</sup> The eligibility of orders to be placed in the Book is determined by reference to PCX Rule 6.52(a), which governs the types of orders that OBOs may accept. Such orders, as indicated in the Rule, "shall include limit orders . . . and such other orders as may be designated by the Options Floor Trading Committee." According to the PCX, the Committee has not designated any additional types of orders that may be accepted by OBOs. Orders not eligible for the Book include, for example, contingency orders, spread orders, straddle orders, and combination orders. Telephone conversation between Robert P. Pacileo, Attorney, PCX, and Ira L. Brandriss, Attorney, Division of Market Regulation, Commission, on August 6, 1999.

<sup>17</sup> The PCX represented that it will provide detailed guidance concerning these responsibilities in a Regulatory Bulletin that will be disseminated to members upon the approval of this proposed rule change. The bulletin will specify, among other things, that in executing transactions for his own account as a Market Maker, an LMM (a) must accord priority to orders he represents as Floor Broker over his activity as Market Maker, and (b) must not initiate a transaction for his own account that would result in putting into effect any stop or stop limit order which may be in the Book or which he represents as Floor Broker, except with the approval of a Floor Official and a guarantee that the stop or stop limit order will be executed at the same price as the executing transaction. Telephone conversation between Robert P. Pacileo, Attorney, PCX, and Ira L. Brandriss, Attorney, Division of Market Regulation, Commission, on November 19, 1999.

<sup>18</sup> See CBOE Rule 8.80(c)(8).

<sup>19</sup> 15 U.S.C. 78s(b)(2).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

#### SOCIAL SECURITY ADMINISTRATION

##### **Social Security Ruling, SSR 00-1c; Disability Insurance Benefits—Claims Filed Under Both the Social Security Act and the Americans With Disabilities Act**

**AGENCY:** Social Security Administration.  
**ACTION:** Notice of Social Security Ruling.

**SUMMARY:** In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling (SSR) 00-1c. This Ruling, based on the Supreme Court's decision in