

the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-00-16 and should be submitted by September 13, 2000.

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

The Commission has reviewed the NYSE's proposed rule change and finds, for the reasons set forth below, that the proposal, as amended, is consistent with the requirements of Section 6 of the Act<sup>8</sup> and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(4) of the Act,<sup>9</sup> because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.<sup>10</sup>

The Commission finds that the NYSE's proposed fee cap is a reasonable one that will be applicable to all its issuers. Further, the fee cap will be instituted on a pilot basis, which will permit the Exchange to evaluate its impact on issuers. The Commission further finds good cause for approving the proposed rule change (SR-NYSE-00-16) prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Exchange requested that the Commission accelerate the effective date of the proposed rule change so that the Exchange could institute the fee cap as quickly as possible, to the benefit of its listed companies. The Commission agrees that approval of this request would enable these issuers to promptly take advantage of the change in fee structure. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b) of the act,<sup>11</sup> to approve the proposal, as amended, on an accelerated basis.

#### V. Conclusion

*It is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-NYSE-00-16), as amended, is hereby approved on an accelerated basis, as a pilot program effective through December 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-21523 Filed 8-22-00; 8:45 am]

BILLING CODE 8010-01-M

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43167; File No. SR-ODD-00-03]

#### Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval to Proposed Supplement to Options Disclosure Document Regarding Risks of Options Positions

August 17, 2000.

On June 26, 2000, the Options Clearing Corporation ("OCC") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> five definitive copies of a Supplement to its options disclosure document ("ODD"), which describes, among other things, the principal risks of options positions. In particular, the Supplement amends certain parts of Chapter 10 that describe the effect of unusual circumstances on the settlement procedures for standardized options.<sup>2</sup>

The ODD currently contains general disclosures on the characteristics and risks of trading standardized options. The Commission has approved OCC rule proposals that change or clarify the settlement procedures for options positions in unusual circumstances, such as when a primary market for component securities of an index option is not open on the last trading day before expiration.<sup>3</sup> The proposed Supplement incorporates descriptions of these changes or clarifications into the ODD.

The Commission has reviewed the ODD Supplement and finds that it complies with Rule 9b-1 under the Act.<sup>4</sup> The Supplement is intended to be read in conjunction with the ODD, which discusses the characteristics and

risks of options generally. The ODD, along with the Supplement, provides information regarding the principal risks of options positions, including the effect of unusual circumstances on the settlement procedures for standardized options. Rule 9b-1 provides that an options market must file five preliminary copies of an amended ODD with the Commission at least 30 days prior to the date definitive copies of the ODD are furnished to customers, unless the Commission determines otherwise, having due regard for the adequacy of information disclosed and the protection of investors.<sup>5</sup> The Commission has reviewed the Supplement, and finds that it is consistent with the protection of investors and in the public interest to allow the distribution of the Supplement as of the date of this order.

*It Is Therefore Ordered*, pursuant to Rule 9b-1 under the Act,<sup>6</sup> that the proposed Supplement regarding special settlement procedures (SR-ODD-00-03) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-21520 Filed 8-22-00; 8:45 am]

BILLING CODE 8010-01-M

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43150; File No. SR-PCX-00-20]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Auto-Ex Log-On Requirements

August 14, 2000.

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 July 10, 2000, 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 PCX. The Commission is publishing this notice to solicit

<sup>5</sup> This provision is intended to permit the Commission either to accelerate or extend the time period in which definitive copies of a disclosure document may be distributed to the public.

<sup>6</sup> 17 CFR 240.9b-1.

<sup>7</sup> 17 CFR 200.30-3(a)(39).

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

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

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>11</sup> 15 U.S.C. 78f(b)(5) and 78s(b).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 17 CFR 240.9b-1.

<sup>2</sup> See Letter from James C. Yong, First Vice President and Deputy General Counsel, OCC, to Elizabeth King, Associate Director, Division of Market Regulation, Commission, dated June 26, 2000.

<sup>3</sup> See Securities Exchange Act Release No. 42769 (May 9, 2000), 65 FR 31036 (May 15, 2000) (order approving SR-OCC-00-01); Securities Exchange Act Release No. 42769 (June 1, 2000), 65 FR 36489 (June 8, 2000) (order approving SR-OCC-99-16).

<sup>4</sup> 17 CFR 240.9b-1.

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 is proposing to adopt a new rule requiring options market makers who log on to the Exchange's automatic execution system for options ("Auto-Ex") during an expiration month to remain on Auto-Ex, while in the trading crowd, until the close of business on the next expiration Friday. The text of the proposed rule change is set forth below. Additions are in italics; deletions are in brackets.

#### **5231 Automatic Execution System Rule 6.87**

(a)–(d) No change

(e) Market Maker Requirements for Eligibility. Any Exchange Member who is registered as a Market Maker and who has obtained written authorization from a clearing member is eligible to participate on the Auto-Ex system, subject to the following conditions and requirements:

(1)–(3) No change.

(4) *Log-on Requirement. A Market Maker who has been logged on to Auto-Ex in an option issue at any time during an expiration month must continue to be logged on to Auto-Ex in that issue whenever present in that trading crowd, until the close of business on the next Expiration Friday. A Market Maker who is limited to "closing only" transactions pursuant to PCX Rules or the requirements of that Market Maker's clearing firm will be exempt from this provision upon approval of two Floor Officials. [A Market Maker who has logged onto Auto-Ex at any time during a trading day must participate on the Auto-Ex system in that option issue whenever present in that trading crowd during that trading day.]*

(f)–(j) No Change.

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

In its filing with the Commission, 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**

Currently, options market makers (other than lead market makers) at the PCX may log on or off of the Auto-Ex System<sup>3</sup> at their discretion, with four exceptions. First, a market maker who has logged on to or off of Auto-Ex at any time during a trading day must participate on the Auto-Ex System in that option issue whenever present in the trading crowd during that trading day.<sup>4</sup> Second, a market maker may be required to log on to Auto-Ex in an issue if two floor officials determine that there is inadequate Auto-Ex participation in that issue.<sup>5</sup> Third, market makers may not log off of Auto-Ex during the first ten minutes of a fast market that has been declared pursuant to PCX Rule 6.28.<sup>6</sup> Finally, market makers may log on to Auto-Ex only when present in person and they must log off of Auto-Ex upon leaving the trading crowd (unless their departure is for a brief interval).<sup>7</sup> Lead Market Makers at the PCX are required to remain logged on to Auto-Ex throughout the trading day.<sup>8</sup>

The Exchange now proposes to amend rule 6.87(e)(4). As indicated above, the rule presently requires a market maker who has logged on to Auto-Ex for an option issue at any time during a trading day to participate in the Auto-Ex System

<sup>3</sup> The Auto-Ex system, a feature of the PCX's Pacific Options Exchange Trading System ("POETS"), permits eligible market or marketable limit orders sent from member firms to be executed automatically at the displayed bid or offering price. Participating market makers are designated as the contra side to each Auto-Ex order. Participating market makers are assigned by Auto-Ex on a rotating basis, with the first market maker selected at random from the list of signed-on market makers. Auto-Ex preserves public limit order book ("Book") priority in all options. If Auto-Ex determines that the Book price is at or better than the market quote, the Auto-Ex order is executed against the Book. Automatic executions through Auto-Ex are currently available for public customer orders between 20 and 50 contracts or less in all series of options traded on PCX's options floor. See generally Securities Exchange Act Release Nos. 27633 (January 18, 1990), 55 FR 2466 (January 24, 1990); 32908 (September 15, 1993), 58 FR 49076 (September 21, 1993); and 40598 (October 23, 1998), 63 FR 58439 (October 30, 1998).

<sup>4</sup> PCX Rule 6.87(e)(4).

<sup>5</sup> PCX Rule 6.87(e)(6). The Exchange represents that the purpose of proposed rule 6.87 is to prevent circumvention of log-on requirements by market makers who voluntarily log on to the Auto-Ex System, not those required—under PCX Rule 6.87(e)(6) or otherwise—to log on to Auto-Ex. Telephone conversation between Hassan Abedi, Attorney, PCX, and Steven Johnston, Special Counsel, Division of Market Regulation, Commission (July 27, 2000).

<sup>6</sup> PCX Rule 6.87(e)(5).

<sup>7</sup> PCX Rule 6.87(e)(3).

<sup>8</sup> PCX Rule 6.82(c)(7).

in that option whenever present in the trading crowd during that day. The Exchange is now proposing to amend Rule 6.87(e)(4) to instead require a market maker who has logged on to Auto-Ex in an option issue at any time during an expiration month to remain logged on to Auto-Ex in that issue whenever present in that trading crowd, until the close of business on the next expiration Friday. It further provides that a market maker who is limited to "closing only" transactions pursuant to PCX Rules, or the requirements of the market maker's clearing firm, would be exempt from this provision upon approval of two floor officials.<sup>9</sup>

The purpose of the proposal is to assure that market makers who avail themselves of the benefits of Auto-Ex during favorable market conditions will also provide the necessary liquidity for inbound Auto-Ex orders when market conditions are unfavorable. The Exchange notes that the Commission has approved a similar rule on behalf of another options exchange.<sup>10</sup> The Exchange believes that implementation of this rule will help to further the important objective of assuring fair and orderly markets at the PCX.

##### **2. Statutory Basis**

The Exchange represents that the proposed rule change is consistent with Section 6(b)<sup>11</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest, by requiring market makers to remain on the floor if logged on to the Auto-Ex System, thereby providing adequate liquidity.

#### **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>9</sup> The Exchange notes that under the current rule, a market maker must obtain written authorization from a clearing member before being permitted to participate on Auto-Ex. PCX Rule 6.87(e).

<sup>10</sup> This requirement is currently codified in CBOE Rule 8.16(b). See Securities Exchange Act Release No. 25995 (August 15, 1988), 53 FR 31781 (August 19, 1988).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</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*

The Exchange 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 proposed rule change has been filed by the Exchange as a non-controversial rule change pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder,<sup>14</sup> and has become effective upon filing because it: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date on which it was filed; and the Exchange provided the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change. At any time within 60 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 propose of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 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 Phlx. All submissions should refer to File No.

SR-PCX-00-20 and should be submitted by September 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-21434 Filed 8-22-00; 8:45 am]

**BILLING CODE 8010-01-M**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-43149; File No. SR-PCX-99-44]**

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Changes to Rule 6, Options Trading, Trading Practices and Procedures**

August 11, 2000.

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 October 29, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On January 7, 2000, the PCX submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On May 25, 2000, the PCX submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>15</sup> 17 CFR 240.30-3(a)(12).

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

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

<sup>3</sup> Letter from Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), SEC, dated January 6, 2000 ("Amendment No. 1"). In Amendment No. 1, the Exchange proposed to eliminate Options Floor Procedure Advices ("OFPA") D-7 and D-8b because the provisions found in these OFPAs are already addressed in current PCX Rules 6.67 and 6.76 respectively.

<sup>4</sup> Letter from Robert P. Pacileo, Senior Attorney, Regulatory Policy, PCX, to Jack Drogin, Assistant Director, Division, SEC, dated May 24, 2000 ("Amendment No. 2"). In Amendment No. 2, the PCX clarified the purpose of the proposed changes to PCX Rule 6.64(7), PCX Rule 6.64(c), PCX Rule 6.67(c)(1), PCX Rule 6.69, PCX Rule 6.70, Commentary .01 to PCX Rule .673, and PCX Rule 6.75. In addition, the Exchange corrected typographical errors, clarified the proposed changes made to PCX Rule 6.64(b)(8) and explained why OFPA F-1 is proposed to be deleted.

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

The PCX proposed to modify its rules relating to trading practices and procedures on the options floor by clarifying existing provisions, eliminating superfluous provisions, incorporating current policies and procedures, and merging certain OFPAs into the text of PCX Rule 6. The text of the proposed rule change is available at the Office of the Secretary, the PCX, and at the Commission.

**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 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**

With regard to options trading practices and procedures, the Exchange is proposing to make the following changes to the text of PCX Rule 6.

a. *OFPAs*: The Exchange proposes to delete the following OFPAs: OFPA A-1, Subject: Responsibility of Floor Brokers at the Opening; OFPA A-3, Subject: Procedure for Entering Orders in the Book Under Certain Circumstances; OFPA A-7, Subject: Floor Broker Giving Up a Name Other Than His Own as Executing Member; OFPA C-1, Subject: Procedures for Opening Rotations; OFPA D-7, Subject: Expressing Fractions in Writing;<sup>5</sup> OFPA D-8b, Subject: Priority on Split Price Transactions;<sup>6</sup> OFPA D-11, Subject: Record Retention Requirements; OFPA F-5, Subject: Means of Communication on the Options Floor; OFPA G-1, Subject: Options Transactions Based on Erroneous Prints of Underlying Security; OFPA G-2, Subject: Imbalance of Orders at Openings; OFPA G-5, Subject: Trading Procedures for Combination, Spread, or Straddle Orders Under Priority Rules; OFPA G-

<sup>5</sup> See Amendment No. 1.

<sup>6</sup> *Id.*

<sup>13</sup> 15 U.S.C. 78f(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).