

liquidity inherent in the Request for Quote ("RFQ") process. Similar to non-FLEX options, positions in FLEX options are required to be reported to the Exchange when an account establishes aggregate same-side of the market position of 200 or more FLEX option contracts. In this manner, the Exchange's proposal is based on the belief that manipulation is best controlled through active and transparent markets.

The Exchange recognizes the theoretical possibility that a would-be manipulator could initiate a large FLEX Equity Option RFQ with no intention of actually trading. Such tactics, however, would be obvious to the Exchange surveillance staff as well as to the Commission, and could be handled under current Exchange rules.

Pursuant to the two-year pilot program, the Exchange will provide to the Commission a status report on the program six months prior to its expiration. In addition, in connection with the monitoring and surveillance of the large FLEX Equity Option positions, Exchange members and member organizations (not including Market Makers) will be required to file a report with the Exchange whenever an account they are carrying holds a position in excess of three times the standard option position limit for that issue. In addition, the Options Clearing Corporation ("OCC") will be contacted when such a report is filed and will be asked to conduct a risk evaluation of the account and its position. If OCC's risk evaluation indicates a cause for concern, the Exchange will notify the member firm carrying the account and assess the circumstances of the transactions, along with the firm's view of the exposure of the account, and determine whether the account is approved and suitable for the strategies used. This monitoring of accounts should provide the Exchange with the information necessary to determine whether additional margin and/or capital charges should be imposed in light of the risks associated with this position in accordance with proposed Exchange Rule 8.107(c).

## 2. Statutory Basis

The PCX believes that the proposed rule change is consistent with Section 6(b) of the Act in general, and with Section 6(b)(5) in particular,<sup>6</sup> in that it is designed to perfect the mechanisms of a free and open market 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 inappropriate burden on competition.

### *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 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 PCX consents, the Commission will:

- A. By order approve the 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. 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. 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, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-97-09 and should be submitted by July 7, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38612; File No. SR-PCX-97-07]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc., Relating to Position and Exercise Limits

May 12, 1997.

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 March 5, 1997, 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,<sup>3</sup> which Items have been prepared by the self-regulatory organization. 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, pursuant to Rule 19b-4 of the Act, is proposing to modify its rules on option position and exercise limits by (a) expanding the scope of its firm facilitation exemption, (b) clarifying its general rule on exercise limits, (c) increasing the position and exercise limits for narrow-based index options, and (d) expanding the broad-based index hedge exemption to include broker-dealers.<sup>4</sup>

#### 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

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

<sup>3</sup> On March 26, 1997, the PCX amended its rule filing. See letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, Pacific Exchange, Inc., to Matthew S. Morris, Office of Market Supervision, Division of Market Regulation, Commission, dated March 26, 1997 ("Amendment No. 1").

<sup>4</sup> The PCX has withdrawn those portions of its rule filing which related to FLEX Equity options, and has refiled these changes in File No. SR-PCX-97-09.

<sup>6</sup> 15 U.S.C. § 78f(b)(5) (1988).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization 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 Exchange is proposing to modify several of its rules on position and exercise limits for equity and index options as follows:

Firm Facilitation Exemption

The PCX's firm facilitation exemption currently applies only to a member firm that facilitates and executes an order for its own customer.<sup>5</sup> The PCX is proposing to amend the firm facilitation exemption in two ways. First, a member firm will qualify for the exemption if it facilitates its own customer whose account it carries, whether the firm executes the order itself or gives the order to an independent broker for execution. Second, the exemption will be expanded to include member firms who facilitate another member's customer order. Such a customer order must be for execution only against the member firm's proprietary account. Further, unlike a member firm that facilitates its own customer, the resulting position will not be carried by the facilitating member firm.<sup>6</sup>

Specifically, PCX Rule 6.8, Commentary .08 currently provides that for the purpose of facilitating (in accordance with the provisions of PCX Rule 6.47(b)) orders of its own customer (one that will enter clear and have the resulting position carried with the firm) in non-multiply-listed Exchange options, the proprietary account of a member organization may receive and maintain an exemption ("facilitation exemption") from the applicable standard position limit to the extent that certain procedures and criteria are satisfied. The Exchange is proposing to replace this provision with another stating that to the extent that certain procedures and criteria are satisfied, a member organization may receive and maintain for its proprietary account an exemption ("facilitation exemption")

<sup>5</sup> The PCX defines a customer order as one that is entered, cleared, and in which the resulting position is carried with the firm.

<sup>6</sup> The Commission notes that any solicitation of a member by another member or customer to facilitate a customer order must comply with the relevant Exchange rules concerning solicited transactions.

from the applicable standard position limit in non-multiply-listed Exchange options for the purpose of facilitating, pursuant to the provisions of PCX Rule 6.47(b), (a) orders for its own customer (one that will have the resulting position carried with the firm) or (b) orders received from or on behalf of a customer for execution only against the member firm's proprietary account.<sup>7</sup>

Exercise Limits

PCX Rule 6.9 currently provides that Exchange member organizations are prohibited from exercising certain long positions in options dealt in on the Exchange as well as options dealt in on other options exchanges.<sup>8</sup> The Exchange is proposing to remove the phrase "of a class of options dealt in on the Exchange" in PCX Rule 6.9, Commentary .01, in order to make that Commentary consistent with current PCX Rule 6.9(a).

Narrow-Based Index Options

Pursuant to PCX Rule 7.6, the position and exercise limits for narrow based (industry) index options traded on the Exchange are currently set at 6,000, 9,000, and 12,000 contracts.<sup>9</sup> Specifically, Exchange rule 7.6(a) provides that position and exercise limits for narrow-based index options be set at one of three levels depending upon the weightings of the component securities in such narrow-based index. Currently, a narrow-based index option will have a 6,000 contract limit if a single component security accounts for more than 30% of the index value; a 9,000 contract limit if a single component security accounts for more than 20% (but less than 30%) of the index value or any five component securities together account for more than 50% of the index value; and a 12,000 contract limit for those narrow-

<sup>7</sup> According to the PCX, the text of the proposed rule is substantially the same as the text of the first paragraph of Interpretation and Policy .06 to CBOE Rule 4.11 as well as the first paragraph of Commentary .10 to Amex Rule 904 and Commentary .02 to Amex Rule 904C. See Securities Exchange Act Release Nos. 37808 (October 10, 1996) 61 FR 54691 (October 21, 1996) (File No. CBOE-96-35), and 37945 (November 13, 1996) 61 FR 59122 (November 20, 1996) (File No. Amex-86-32).

<sup>8</sup> See Securities Exchange Act Release No. 36350 (October 6, 1995), 60 FR 53654 (October 16, 1995) (approval order relating to members' compliance with position and exercise limits for non-PCX listed options) (File No. PSE-95-17).

<sup>9</sup> See Securities Exchange Act Release No. 36537 (November 30, 1995), 60 FR 62916 (December 7, 1995) (order approving increases to narrow-based index option position and exercise limits from 5,000, 7,500, and 10,500 contracts to 6,000, 9,000 and 12,000 contracts) (File No. PSE-95-30).

based indexes that do not fall within any one of the other categories.

The Exchange is proposing to increase these position and exercise limits to 9,000, 12,000, and 15,000 contracts. The Exchange notes that the Commission has approved such increases to the position and exercise limits of other options exchanges.<sup>10</sup>

Broad-Based Index Hedge Exemption

PCX Rule 7.6, Commentary .02, currently provides that positions in broad-based index option issues traded on the Exchange, held in the aggregate by a customer (who is neither a member nor a broker/dealer) are exempt from this position limit rule to the extent that certain procedures and criteria are met. The Exchange is proposing to modify this provision and the subject procedures in several respects.<sup>11</sup>

First, the Exchange is proposing to extend the broad-based index hedge exemption to broker-dealers. Accordingly, the Exchange is replacing various references to "customer" in the text of Commentary .02 with references to "accounts," which refer to the accounts in which the exempt options positions are held (*i.e.*, the "hedge exemption account").

Second, the Exchange is proposing that it be allowed to grant approval of a broad-based index hedge exemption on the basis of verbal representations, provided that the hedge exemption account furnishes to the Exchange, within two business days (or such other time period designated by the Exchange) appropriate documentation sustaining the basis for the exemption.

Third, the Exchange is proposing to add a provision (at new subsection (c)) stating that a hedge exemption account that is not carried by a PCX member organization must be carried by a member of a self-regulatory organization participating in the Intermarket Surveillance Group ("ISG").

Fourth, the Exchange is eliminating current subsections (c) and (d) and replacing them with new subsection (d), which provides that the hedge exemption account must maintain a qualified portfolio, or will effect transactions necessary to obtain a qualified portfolio concurrent with or at

<sup>10</sup> See, *e.g.*, Securities Exchange Act Release Nos. 37863 (October 24, 1996), 61 FR 56599 (November 1, 1996) (File No. Phlx-96-33), and 38202 (January 23, 1997), 62 FR 4555 (January 30, 1997) (File No. Amex-96-41).

<sup>11</sup> The Exchange notes that the Commission has approved similar changes to the rules of the CBOE. See Securities Exchange Act Release No. 37504 (July 31, 1996), 61 FR 40868 (August 6, 1996) (File No. CBOE-96-01).

or about the same time<sup>12</sup> as the execution of the option position of: (1) a net long or short position in common stocks in at least four industry groups and contains at least twenty stocks, none of which account for more than fifteen percent of the value of the portfolio or in securities readily convertible, and additionally in the case of convertible bonds, economically convertible, into common stocks which would comprise a portfolio, and/or (2) a net long or short position in index futures contracts or in options on index futures contracts, or long or short positions in index options or index warrants, for which the underlying index is included in the same margin or cross-margin product group cleared at the Options Clearing Corporation ("OCC") as the index option class to which the hedge exemption applies. To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity.

Fifth, the Exchange is proposing to clarify the method of determining the unhedged value of a "qualified portfolio." Accordingly, subsection (e) of Commentary .02 will provide that the unhedged value will be determined as follows: (1) the values of the net long or short positions of all qualifying products in the portfolio are totaled; (2) for positions in excess of the standard limit, the underlying market value (A) of any economically equivalent opposite side of the market calls and puts in broad-based index options, and (B) of any opposite side of the market positions in stock index futures, options on stock index futures, and any economically equivalent opposite side of the market positions, assuming no other hedges for these contracts exist, is subtracted from the qualified portfolio; and (3) the market value of the resulting unhedged portfolio is equated to the appropriate number of exempt contracts as follows: the unhedged qualified portfolio is divided by the corresponding closing index value and the quotient is then divided by the index multiplier or 100.

Sixth, the proposal specifies that only the following qualified hedging transactions and positions are eligible for purposes of hedging a qualified portfolio (*i.e.*, stocks, futures, options, and warrants): (1) Long put(s) used to hedge the holding of a qualified

portfolio; (2) Long call(s) used to hedge a short position in a qualified portfolio; (3) Short call(s) used to hedge the holding of a qualified portfolio; and (4) Short put(s) used to hedge a short position in a qualified portfolio. In addition, the proposal states that the following strategies may be effected only in conjunction with a qualified stock portfolio: (5) For non-P.M. settled, European-style index options only—a short call position accompanied by long put(s), where the short call(s) expire with the long put(s), and the strike price of the short call(s) equals or exceeds the strike price of the long put(s) (a "collar") (provided that neither side of the collar transaction can be in-the-money at the time the position is established;<sup>13</sup> (6) For non-P.M. settled, European-style index options only—a long position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expire with the long put(s), and the strike price of the long put(s) exceed the strike price of the short put(s) (a "debit put spread position"); and (7) For non-P.M. settled, European-style index options only—a short call position accompanied by a debit put spread position, where the short call(s) expire with the puts and the strike price of the short call(s) equals or exceeds the strike price of the long put(s) (provided that neither side of the short call, long put transaction can be in-the-money at the time the position is established.<sup>14</sup>

Finally, the Exchange is proposing to add a new provision stating that positions included in a qualified portfolio that serve to secure an index hedge exemption may not also be used to secure any other position limit exemption granted by the Exchange or any other self-regulatory organization or futures contract market.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

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

The self-regulatory organization does not believe that the proposed rule change will impose any inappropriate burden on competition.

## 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 new change.

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

Within 35 days of the 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 the 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. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-97-07 and should be submitted by June 10, 1997.

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

<sup>12</sup>The Exchange expects that the hedge will be established concurrently with or immediately following the execution of the option transaction absent good cause. In this regard, the Exchange notes that extreme market conditions, the implementation of circuit breakers, or the lack of liquidity may affect a market participant's ability to establish a hedge within the noted time-frame.

<sup>13</sup>For purposes of determining compliance with PCX Rules 6.8 and 7.6, a collar position will be treated as one contract.

<sup>14</sup>For purposes of determining compliance with PCX Rules 6.8 and 7.6, the short call and long put positions will be treated as one contract.

<sup>15</sup>17 CFR 200.30-3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-13098 Filed 5-19-97; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38621; File No. SR-PCX-97-11]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to FLEX Equity Options Waiver Extension

May 13, 1997.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 23, 1997, 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 PCX. 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 waive all customer, firm and market maker transaction fees for transactions in FLEX Equity Options until further notice.

#### 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 PCX 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

On February 14, 1996, the Commission approved an Exchange proposal for the listing and trading of Flexible Exchange (FLEX) Options on

equity securities, pursuant to Rule 8.100.<sup>3</sup> The Exchange commenced trading of FLEX Equity Options on October 24, 1996. On October 31, 1996, the Commission approved an Exchange proposal to waive, for three months, all customer, firm and market maker transaction fees for transactions in FLEX Equity Options.<sup>4</sup> The Exchange extended the waiver for three additional months, ending on Wednesday, April 29, 1997.<sup>5</sup> The Exchange is now proposing to extend the waiver until further notice. The purpose of the waiver is to encourage customers, firms and market makers to execute transactions in FLEX Equity Options on the Exchange and to respond to competitive actions in the industry.

###### 2. Statutory Basis

The proposal is consistent with Section 6(b)(5) <sup>6</sup> of the Act because it is designed to facilitate transactions in securities.

##### 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.

##### 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 of Commission Action

The foregoing rule change, as amended, establishes or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(ii) <sup>7</sup> of the Act and subparagraph (e) of Rule 19b-4 <sup>8</sup> thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

<sup>3</sup> See Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996).

<sup>4</sup> See Securities Exchange Act Release No. 37901 (October 31, 1996), 61 FR 57508 (November 6, 1996).

<sup>5</sup> See Securities Exchange Act Release No. 38254 (February 6, 1996), 62 FR 6823 (February 13, 1996).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 19b-4(e).

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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, 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 PCX. All submissions should refer to File No. SR-PCX-97-11 and should be submitted by July 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-13101 Filed 5-19-97; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**ACTION:** Notice of reporting requirements submitted for review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Comments should be submitted on or before June 19, 1997. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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