

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39111; File No. SR-PCX-97-33]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc., Relating to Permanent Approval of its Lead Market Maker System

September 22, 1997.

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 5, 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 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 Exchange is proposing to adopt its Lead Market Maker ("LMM") Pilot Program on a permanent basis. The text of the proposed rule change is available at the Office of the Secretary, 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 self-regulatory organization 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 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

On January 17, 1990, the Commission approved, on a pilot basis, an Exchange proposal to establish a Lead Market Maker system. The Commission initially approved the LMM pilot program to continue for eighteen months to July 31,

1991.³ Thereafter, the Commission granted a number of extensions to the program.⁴ The program is currently set to expire on September 30, 1997. In order to make the LMM program permanent, PCX proposes to amend commentary .01 of Exchange rule 6.82, deleting the expiration date for the Lead Market Maker system.

The program was originally created in order to enhance the ability of the Exchange to compete in a multiple trading environment. It was designed primarily for new option issues and option issues with comparatively low volume. Under the existing pilot program, Members appointed as LMMs assume responsibilities and acquire rights in their appointed options classes beyond the obligations and rights of Market Makers who trade in the same options issue. In addition to the regular obligations of a Market Maker, an LMM must assume additional obligations designed to strengthen the market making in his or her designated options issue. Pursuant to Rule 6.82, the LMM is responsible for, among other things: ensuring the accurate dissemination of market quotations; determining the algorithm for the PCX's Auto-Quote System is designated option classes; assuring that each market quotation is honored consistent with certain minimum obligations; participating in the automatic execution system; being present at the designated trading post throughout each trading day; and actively promoting the Exchange as a marketplace. LMMs also receive a guaranteed 50% participation in transactions occurring on their disseminated bids and offers in their appointed issues.

The LMM pilot program is governed by PCX Rules 6.82 and 8.83.⁵ On October 3, 1996, the Commission approved an Exchange proposal to

³ See Securities Exchange Act Release No. 27631 (January 17, 1990), 55 FR 2462 (January 24, 1990) (approving SR-PSE-89-27 and Amendment No. 1 thereto) ("Pilot Approval Order").

⁴ See 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). See also File No. SR-PSE-93-16 (requesting permanent approval of the pilot program) and Amend. Nos. 1-3 thereto (requesting pilot program extensions while the request for permanent approval was pending). On April 20, 1994, the Exchange withdrew File No. SR-PSE-93-16 pursuant to Commission's request. See Letter from David P. Semak, Vice President, Regulation, PSE, to Sharon M. Lawson, Assistant Director, Division of Market Regulation, Commission, dated April 20, 1994.

⁵ Cf. Rules 8.80 and 8.81 of the Chicago Board Options Exchange.

modify Rule 6.82 by adding several new substantive provisions and by restructuring the rule and clarifying some of its existing provisions.⁶ The Exchange notes that it has not experienced any problems or received any formal complaints due to the rule changes that were approved.

The Exchange notes that as of July 28, 1997, 309 or (55.3%) of the 559 standard equity options traded on the Options Floor, and all 3 of the indexes on which options are traded at the PCX, have been assigned to LLMs. As of June 30, 1997, those 312 issues accounted for 31.15% of the total options volume traded on the floor.

The Exchange believes, based on the pilot's performance, that the LMM system is viable and effective and that permanent approval of the LMM program is warranted based on the importance of maintaining the quality, efficiency and competitiveness of the Exchange's markets.

Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,⁷ in general, and Section 6(b)(5),⁸ in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, 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.

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

The Commission has closely reviewed the Lead Market Maker System and has concluded that it is appropriate to approve the system on a permanent basis. The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act⁹ in that it is designed to

⁶ See Exchange Act Release No. 37780 (October 3, 1996), 61 FR 53247 (October 10, 1996) (Order approving File No. SR-PSE-96-03).

⁷ 15 U.S.C. § 78f(b).

⁸ 15 U.S.C. § 78f(b)(5).

⁹ 15 U.S.C. § 78f(b)(5).

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest. In addition, the Commission finds that the proposed rule change is consistent with Section 11A(a)(1)(C)(i) of the Act¹⁰ in that the LMM pilot program contributes to the Exchange's maintenance of a fair and orderly market and assures economic and efficient execution of securities transactions. The Commission notes that since 1990, when PCX began operating the LMM pilot program, PCX has made a number of refinements to the program over this period and has submitted numerous reports to the SEC covering the operation of the program. During this period, the use of the LMM program has grown significantly, yet there have been only several minor complaints and rule infractions reported.¹¹

The Commission finds good cause for approving the proposed rule change prior to the thirtieth after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the uninterrupted continuation of the LMM program. As set forth in its most recent report to the Commission, the PCX has represented that it has not received significant complaints regarding the operation of the pilot program nor have problems arisen in connection with operation of the pilot program. Moreover, the current pilot program was subject to a full comment period last year¹² and no comments were received. Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act¹³ to approve the proposed rule change on an accelerated basis.

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 in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 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-97-33 and should be submitted by October 23, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-PCX-97-33) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-26147 Filed 10-1-97; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 18, 1997 [62 FR, 38605-38606].

DATES: Comments must be submitted on or before November 3, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Weaver, Information Collection

Clearance Officer, Maritime Administration, MAR-318, Room 7301, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5755 or fax 202-366-3889. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S. Citizen Owned Documented Vessels.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2133-0006.

Affected Public: Respondents are vessel owners who have applied for foreign transfer of U.S.-flag vessels.

Abstract: MARAD is required to approve the sale, transfer, charter, lease, or mortgage of U.S. documented vessels to non-citizens, or the transfer of such vessels to foreign registry and flag, or the transfer of foreign flag vessels by their owners as required by various contractual requirements. These provisions are implemented by 46 CFR part 221.

Need: This information collection requires a vessel owner to submit an application for a prospective foreign transfer of a U.S.-flag vessel. This information will assist in the determination of whether the vessel proposed for transfer will initially require retention under the U.S.-flag statutory regulation. In such instances, the application is reviewed and cleared for approval by specialists within MARAD, Department of Commerce, and Department of Defense.

Estimated Annual Burden Hours: 440 hours.

Annual Responses: 220.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

¹⁰ 15 U.S.C. § 78k-1(a)(1)(C)(i).

¹¹ Reports were required to be submitted by the Exchange prior to each extension of the pilot program. In addition, the Exchange submitted a report prior to its request for permanent approval of the Lead Market Maker program. The Commission hereby incorporates by reference the findings and conclusions contained in the original approval order and subsequent extension orders for the Lead Market Maker program. Securities Exchange Act Release Nos. 27631 (January 17, 1990), 55 FR 2462; 29475 (July 23, 1991), 56 FR 36183; 31063 (August 21, 1992), 57 FR 39255; 92-36 (December 22, 1992), 57 FR 62414; 33854 (April 1, 1994), 59 FR 16873; 34710 (September 23, 1994), 59 FR 50306; 36293 (September 28, 1995), 60 FR 52242; 37767 (September 30, 1996), 61 FR 52483.

¹² Securities Exchange Act Release No. 37767 (September 30, 1996), 61 FR 52483.

¹³ 15 U.S.C. § 78f(b)(5), 15 U.S.C. § 78s(b)(2).

¹⁴ 15 U.S.C. § 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).