

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 by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

The NASD proposes to make the rule change effective upon Commission approval.

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. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-97-92 and should be submitted by February 6, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-1110 Filed 1-15-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39532; File No. SR-PCX-97-28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Exchange-Sponsored Hand-Held Terminals for Options Floor Brokers

January 9, 1998.

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 July 3, 1997 and December 12, 1997, respectively, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change and amendment No. 1 to 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, as amended, 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 program to allow floor brokers on the Options Floor to use Exchange-sponsored hand-held terminals to receive orders sent electronically by Member Firms located off the floor. The proposal will also establish new procedures for electronic order flow handling, routing, execution and trade reporting under the program. The text of the proposed rule change is available at the Office of the Secretary, the Exchange 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

1. Purpose

General Description. The Exchange's Member Firm Interface ("MFI")³ currently permits Exchange Member Firms to use an electronic link with the

³The MFI is an electronic order delivery and reporting system that allows member firms to route orders for execution by the automatic execution feature of POETS as well as to route limit orders to the Options Public Limit Order Book. Orders that do not reach those two destinations are defaulted to a member firm booth. MFI also provides member firms with instant confirmation of transactions to their systems. Member firms may access POETS by establishing an MFI mainframe-to-mainframe connection.

Exchange to send their option orders directly to the Exchange for delivery to POETS (Pacific Option Exchange Trading System).⁴ Under the proposal, member firms would be able to use the MFI connection to route orders directly to the member firm booth (not by default) or to a floor broker's hand-held terminal located in the trading crowd.⁵

Under the program, Member Firms will be permitted to send their orders electronically to the Exchange via MFI and route them to one of three destinations on the trading floor: (a) To a floor broker standing in the trading crowd; (b) to a Member Firm booth location on the trading floor; or (c) to POETS, where they will be automatically executed by Auto-Ex or maintained in Auto-Book. All orders so transmitted will first be sent through the Server.⁶ Orders sent to a Member Firm booth via the Server may be sent subsequently either to POETS or to a floor broker in the trading crowd. Orders sent via the Server to a floor broker in the trading crowd may subsequently be transmitted to a Member Firm booth, to POETS, or to another floor broker on the trading floor.

The Exchange intends to furnish hand-held terminals to be used by floor brokers under the program. In addition, the Exchange will supply booth devices that will have the capability to retrieve and display all orders that were submitted through the device. The Exchange intends to assess users a monthly rental fee for such use.⁷

⁴ Orders entered via MFI are delivered to one of three destinations: (a) to Auto-Ex, where they are automatically executed at the disseminated bid or offering price; (b) to Auto-Book which maintains non-marketable limit orders based on limit price and time of receipt; or (c) to a Member Firm's default destination—a particular firm booth or remote entry site—if the order fails to meet the eligibility criteria necessary for either Auto-Ex or Auto-Book or if the Member Firm requests such default for its orders. See generally Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 ("POETS Approval Order").

⁵ In that regard, the Exchange is proposing to add a new Rule 6.88(a), which provides: "Members and Member Organizations may send orders electronically through the Exchange's Member Firm Interface and route them directly to POETS, to a Member Firm booth on the Options Floor, to a Floor Broker Hand-Held Terminal located on the Options Floor, or to any other location designated by the Exchange, provided that the Member or Member Organization has been approved by the Exchange to do so."

⁶ The Exchange notes that there will be no appreciable delay in order entry due to the transmission of orders through the Server. The Exchange also notes that if a Member Firm routes an order to POETS via MFI for automatic execution or maintenance in Auto-Book, the order will not be sent through the Server. Only orders to be transmitted through the Hand-Held Terminal system will be sent through the Server.

⁷ The Exchange will submit a separate rule filing to the Commission to establish these fees.

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

Exchange rules on order representation and order execution will generally be unchanged under the program.⁸ However, the Exchange is proposing to modify its rules on orders to provide that an order sent electronically through MFI will be deemed to be a "written order" for purposes of Rule 6.67. The order information that must be reported to the Exchange in connection with each transaction that is executed on the trading floor will be also unchanged under the program.⁹

Prohibition of Market Making Function. The Exchange is proposing to adopt new Rule 6.88(b) providing that no Floor Broker may knowingly use a Floor Broker Hand-Held Terminal, on a regular and continuous basis, to simultaneously represent orders to buy and sell options contracts in the same series for the account of the same beneficial holder. The rule further provides that if the Exchange determines that a person or entity has been sending, on a regular and continuous basis, orders to simultaneously buy and sell option contracts in the same series for the account of the same beneficial holder, the Exchange may prohibit orders for the account of such person or entity from being sent through the Exchange's Member Firm Interface for such period of time as the Exchange deems appropriate.¹⁰

Implementation. The Exchange is proposing a two-phase approach to integrating the new hand-held technology into the floor environment. In Phase I, the Exchange will allow limited implementation of the program to evaluate the use of hand-held terminals and to identify and correct any problems that may arise. In this regard, the Exchange will select a representative cross-section of floor members and off-floor members for the execution of various types of order flow in both lightly-traded and heavily-traded issues. Phase I will last for about four months. It will involve approximately two off-floor Member Firms, two Member Firm booth devices

and 12 floor broker hand-held terminals. The Exchange, in conjunction with its Options Floor Trading Committee, will select Members and Member Firms to participate in Phase I on an objective basis.¹¹ During Phase I, floor brokers will not be permitted to transmit orders to other floor brokers (they will be limited to transmitting orders either to POETS or to a Member Firm booth).

In Phase II, the Exchange will roll out the program on a floor-wide basis, allowing any qualified Floor Member or off-floor Member who wishes to participate in the program to do so.¹²

Order Tickets. Under the proposal, initially, floor brokers using terminals will not need to write up order tickets because the trade-related floor broker terminal information will be passed electronically to POETS and then to POPS (Pacific Options Processing Information) for clearing purposes. Yet the party on the other side of the trade, if it is executed by a market maker of a floor broker not using a terminal, will have to submit a paper order ticket to the Exchange for processing. Later, when advancements in technology allow for it, no paper tickets will be required because all market makers and floor brokers will be able to interface with each other through hand-held terminals—but that change will be the subject of another filing. With regard to proprietary hand held terminals, the order ticket requirement would be the same as with the Exchange-sponsored terminals, i.e., if the trade information is not sent to the Exchange electronically, it will have to be conveyed by means of a written order ticket.

Clearing and Trade Reporting. Once an order has been executed, the Hand-Held Terminal system will route trade information to POETS, which, in turn, will route the information to a computer for trade match and clearing purposes. At the same time, the Exchange will send a trade report to the Member Firm that entered the order. In addition, the

Exchange will transmit trade information to OCC, OPRA and certain vendors.

Audit Trail. Order information sent through the Hand-Held Terminal system will become audit trail information that is available to the Exchange for regulatory purposes. However, if an order is routed to the Member Firm booth by telephone or wire, and not through MFI, and the order is then sent to POETS or to a floor broker in the crowd, the audit trail information will commence when the order is sent from the booth. An audit trail of all actions taken by the hand-held terminal that result in an interaction with the Server will be maintained. Upon receipt of an order in the Server from POETS or a booth device, the order will be time stamped and retained in the Server's database. When orders are executed at a hand-held device, they will be time stamped upon receipt by the Server. The Exchange believes that the audit trail information will be more accurate than current information, which is recorded manually on order tickets.

System Capacity. The Exchange believes, based upon extensive analysis and testing, that implementation of the program will not adversely affect POETS system capacity or functionality.

Use of Other Hand-Held Terminal Devices. The Exchange will not prohibit floor brokers from using proprietary hand-held terminals¹³ for order entry on the Options Floor as long as they do not interfere with any Exchange-sponsored hand-held terminals, with POETS or with other equipment on the floor.¹⁴

2. Statutory Basis

The Exchange represents that the proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and Section 6(b)(5) of the Act,¹⁶ in particular, is that it is designed to promote just and equitable principles of trade; to foster

¹³The Exchange notes that a rule filing to permit Exchange floor brokers to use proprietary order routing terminals on the Options Trading Floor is currently pending before the Commission. See Securities Exchange Act Release No. 38270 (Feb. 11, 1997), 62 FR 7286 (Feb. 18, 1997) (Notice of filing of SR-PSE-97-02).

¹⁴The term "interfere" refers to electronic interference that may occur between a member's proprietary device and another electronic system or piece of equipment on the Trading Floor. For example, if the use of a proprietary device on the floor caused the POETS automatic execution to halt, or if it disrupted telephonic communications on the floor, or if it prevented another member firm from being able to receive electronic orders through another order-routing system, then the device causing the interference could not be used on the floor until it was rendered compatible with the order electronic systems in use.

¹⁵ 15 U.S.C. § 78f(b).

¹⁶ 15 U.S.C. § 78f(b)(5).

⁸ See, e.g., PCX Rules 5.1(e), 6.43-6.48 and Options Floor Procedure Advices A-1-A-11 and G-1-G12.

⁹ See PCX Rule 6.69.

¹⁰ The Exchange notes that the Commission has previously approved rule change proposals that prohibit the use of floor-broker hand-held terminals from performing a market maker function. See, e.g., Securities Exchange Act Release No. 38054 (Dec. 16, 1996), 61 FR 67365 (Dec. 20, 1996) (Order Approving SR-CBOE-95-48). The PCX has filed a similar proposal, which is currently pending with the Commission. See Securities Exchange Act Release No. 38270 (Feb. 11, 1997), 62 FR 7286 (Feb. 18, 1997) (Notice of filing of SR-PSE-97-02).

¹¹ Factors will include the nature of order flow (retail or institutional), the nature of the issue (lightly-traded or heavily-traded), nature of the floor brokerage operation, time of application, limitations in the number of participants who may participate, and other such factors.

¹² The term "qualified Floor Member or off-floor Member" refers to the requirement that all floor brokers and order flow providers who participate in the program must be approved by the Exchange to do so. Floor brokers are eligible to participate if they are registered with the Exchange as floor brokers pursuant to Rule 6.44 and have arranged with a member firm to receive order flow through the system. Member firms are eligible to participate in the program if they have made arrangements with a floor broker for the transmission and execution of orders. Moreover, program participants will be required to pay the Exchange a fee in an amount to be specified in a rule change proposal to be filed with the Commission.

cooperation and coordination with persons engaged in regulating, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of free and open market and a national market system; to protect investors and the public interest; and is not designed to permit unfair discrimination between customer, issuers, brokers or dealers.

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

The Exchange 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 either solicited or received.

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 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 Room. 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-PCX-97-28 and should be submitted by February 6, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Jonathan G. Katz,
Secretary.

[FR Doc. 98-1112 Filed 1-15-98; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending January 9, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST-98-3300.

Date Filed: January 5, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC3 Telex Mail Vote 904, Korea-Japan/China fares, Intended effective date: February 1, 1998.

Docket Number: OST-98-3301.

Date Filed: January 5, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC1 Telex Mail Vote 905, Chile-Brazil PEX fares, Intended effective date: January 15, 1998.

Docket Number: OST-98-3302.

Date Filed: January 5, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC23 AFR-TC3 0028 dated December 5, 1997, Africa TC3 Resos r1-40, Minutes—PTC23 AFR-TC3 0029, dated December 23, 1997, Tables—PTC23 AFR-TC3 Fares 0012, dated December 19, 1997, Intended effective date: April 1, 1998.

Docket Number: OST-98-3315.

Date Filed: January 7, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC3 Telex Mail Vote 906, Japan-China fares, Intended effective date: January 15, 1998.

Docket Number: OST-98-3316.

Date Filed: January 7, 1998.

Parties: Members of the International Air Transport Association.

Subject: PSC/Reso/090 dated December 1, 1997, Finally Adopted Resolutions r1-r52, Minutes—PSC/

Minutes/004 dated December 1, 1997, Intended effective date: June 1, 1998.

Docket Number: OST-98-3320.

Date Filed: January 9, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC12 NMS-ME 0036 dated December 19, 1997, r1-17, PTC12 NMS-ME 0037 dated December 19, 1997, r18-r35, Minutes—PTC NMS-ME 0035 dated December 19, 1997, Table—PTC12 NMS-ME Fares 0016 dated January 6, 1998, Intended effective date: April 1, 1998.

Paulette V. Twine,

Documentary Services.

[FR Doc. 98-1166 Filed 1-15-98; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending January 9, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (see 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each Application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or, in appropriate cases, a final order without further proceedings.

Docket Number: OST-95-495.

Date Filed: January 7, 1998.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 4, 1998.

Description: Amendment No. 2 to the Application of United Air Lines, Inc. pursuant to 49 U.S.C. Section 40103 and Subpart Q of the Rules (14 CFR 302.1701, *et seq.*) to realign Segment 1 of its Certificate of Public Convenience and Necessity for Route 632 by adding to the route the following coterminal points in South America: Colombia (to be substituted for Barranquilla, Colombia), Ecuador, Peru, Bolivia, and Paraguay.

Paulette V. Twine,

Documentary Services.

[FR Doc. 98-1165 Filed 1-15-98; 8:45 am]

BILLING CODE 4910-62-P

¹⁷ 17 CFR 200.30-3(a)(12).