

effectiveness pursuant to section 19(b)(2)⁸ 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 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 PCX. All submissions should refer to File No. SR-PCX-00-32 and should be submitted December 6, 2000.

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

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 of the Act.⁹ Among other provisions, section 6(b)(5) of the Act requires that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating securities transactions; remove impediments to and perfect the mechanism of a free and open market and a national securities system; and protect investors and the public interest.¹⁰

Pursuant to section 19(b)(2)¹¹ of the Act, the Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the

Federal Register.¹² The Commission believes that granting accelerated approval will provide the PCX with flexibility to compete for order flow with other exchanges without being limited to responding to increases in automatic execution eligibility levels initiated by those other exchanges.¹³

While increasing the maximum order size limit from fifty contracts to seventy-five contracts for Auto-Ex eligibility by itself does not raise concerns under the Act, the Commission believes that this increase raises collateral issues that the PCX will need to monitor and address. Increasing the maximum order size for particular option classes will make a larger number of option orders eligible for the Exchange's automatic execution system. These orders may benefit from greater speed of execution, but at the same time create greater risks for market maker participants. Market makers signed onto the Auto-Ex system will be exposed to the financial risks associated with larger-sized orders being routed through the system for automatic execution at the displayed price. When the market for the underlying security changes rapidly, it may take a few moments for the related option's price to reflect that change. In the interim, customers may submit orders that try to capture the price differential between the underlying security and the option. The larger the orders accepted through Auto-Ex, the greater the risk market makers must be willing to accept. The Commission does not believe that, because the Exchange's OFTC determines to approve orders as large as seventy-five contracts as eligible for Auto-Ex, the OFTC or any other PCX committee or officials should disengage Auto-Ex more frequently by, for example, declaring a "fast" market. Disengaging Auto-Ex can negatively affect investors by making it slower and less efficient to execute their option orders. It is the Commission's view that the Exchange, when increasing the maximum size of orders that can be sent through Auto-Ex, should not disadvantage all customers—the vast majority of which enter orders for less than seventy-five contracts—by making the Auto-Ex system less reliable.

¹² In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ The Commission notes that it is concurrently approving similar proposals filed by the American Stock Exchange, LLP ("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), and the Philadelphia Stock Exchange, Inc. ("Phlx"). See Securities Exchange Act Release Nos. 43516 (November 3, 2000) (SR-Amex-99-45); 43517 (November 3, 2000) (SR-CBOE-99-51); and 41515 (November 3, 2000) (SR-Phlx-99-32).

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹⁴ that the proposed change, as amended, (SR-PCX-00-32) is hereby approved on an accelerated basis.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43519; File No. SR-PCX-00-18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. To Increase the Maximum Auto-Ex Order Size to 100 Contracts

November 3, 2000.

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 June 30, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 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 increase the maximum size of equity and index option contracts that may be designated for automatic execution to 100 contracts.

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,

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 15 U.S.C. 78(b)(2).

⁹ The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(2).

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's automatic execution system ("Auto-Ex") automatically executes public customer market and marketable limit orders within certain size parameters. PCX Rule 6.87(b) currently provides that the Options Floor Trading Committee ("OFTC") shall determine the size of orders that are eligible to be executed through Auto-Ex. The rule further provides that although the OFTC may change the order size parameter on an issue-by-issue basis, the maximum order size for execution through Auto-Ex is fifty contracts for both equity and index options.³ The Exchange is now proposing to increase the maximum size of option orders that are eligible for automatic execution, subject to designation by the OFTC on an issue-by-issue basis, to 100 contracts.⁴

The Exchange believes that these changes will help it to meet the changing needs of customers in the marketplace and give the Exchange better means of competing with other options exchanges for order flow, particularly in multiply traded issues. The Exchange also believes that increasing to 100 the number of option contracts executable through the Exchange's Auto-Ex order execution system will enable the Exchange to more effectively and efficiently manage increased order flow in actively traded option issues consistent with its obligations under the Act. In addition, this increase should bring the speed and efficiency of automated execution to a greater number of retail orders. The PCX further believes that it should have flexibility to compete for order flow with other exchanges without being limited to responding to increases in

³ See Securities Exchange Act Release No. 41823 (September 1, 1999), 64 FR 49265 (September 10, 1999) (approving PCX proposal to increase the maximum size of index and equity option orders that may be automatically executed, from twenty to fifty contracts). Concurrent with its issuance of this notice, the Commission approved, on an accelerated basis, a PCX proposal to increase the maximum order size for Auto-Ex eligibility from fifty contracts to seventy-five contracts. See Securities Exchange Act Release No. 43518 (November 3, 2000).

⁴ The Exchange notes that, pursuant to PCX Rule 6.86(g), if the OFTC determines, pursuant to PCX Rule 6.87(b), that the size of orders in an issue that are eligible to be executed on Auto-Ex will be greater than twenty contracts, then the trading crowd will be required to provide a market depth for manual (non-electronic) orders in that greater amount, as provided in PCX Rule 6.86(a).

automatic execution eligibility levels initiated by those other exchanges.⁵

The Exchange represents that it believes that the increase will not expose the Exchange's Auto-Ex system to risk of failure or operational breakdown. The Exchange represents that it further believes that its systems capacity is sufficient to accommodate the increased number of automatic executions anticipated to result from implementation of this proposal.

2. Statutory Basis

The Exchange believes that this proposal is consistent with section 6(b)⁶ of the Act, in general, and furthers the objectives of section 6(b)(5),⁷ in that it is designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

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

PCX 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

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 date of publication of this notice in the **Federal Register** 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 such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

⁵ See PCX Rule 6.87(c) (permitting the PCX to match the maximum size of orders eligible for automatic execution that are permitted on another options exchange in multiply traded issues).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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 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 PCX. All submissions should refer to File No. SR-PCX-00-18 and should be submitted by December 6, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43524; File No. SR-Phlx-00-74]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Regarding Exchange Liability in Connection with the Administration of its Proprietary Indices

November 6, 2000.

I. Introduction

On August 4, 2000, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change seeking to amend Phlx Rule 1102A, Limitation of Exchange Liability, to add to the

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-1.