

Finally, by consolidating rules affecting floor brokers in one section of the PCX rules, the Commission believes that PCX members and other interested parties will have easier access to relevant information. The Commission believes that the rule consolidation will assist floor brokers in understanding their obligations, and thus facilitate their compliance with the rules.

IV. Amendment No. 2

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice in the **Federal Register**. Amendment No. 2 makes technical, non-substantive changes to the proposal, such as changing the titles of two subparagraphs of PCX Rule 6.47 to better reflect their purpose; reflecting that additional subparagraphs were added to PCX Rule 6.47(b); and deleting language in a commentary that duplicates language proposed in PCX Rule 6.47(d).

The Commission finds that PCX's proposed changes in Amendment No. 2 clarify the proposed rule change and raises no new regulatory issues. Further, the Commission believes that Amendment No. 2 does not significantly alter the original proposal, which was subject to a full notice and comment period. Therefore, the Commission finds that granting accelerated approval to Amendment No. 2 is appropriate and consistent with section 19(b)(2) of the Act.¹²

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 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 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-99-45 and should be submitted by July 9, 2001.

VI. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-PCX-99-45), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44402; File No. SR-PCX-2001-19]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Exchange Rules Under the Minor Rule Plan

June 8, 2001.

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 April 4, 2001, 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 proposes to increase the fines imposed on ETP Holders, ETP Firms or associated persons of an ETP Firm of its wholly-owned subsidiary, PCX Equities, Inc. ("PCXE" or "Cooperation") for violating the Exchange rules under the Minor Rule Plan.

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

The Exchange proposes to amend PCXE's rules governing Minor Rule Plan violations to increase most fines because the Exchange believes that: (1) the current fines are too low to deter violations of PCXE rules; and (2) an increase in the current fines will more adequately sanction violations of the PCXE's order-handling and investigating rules. Many of these violations are processed under the Minor Rule Plan.³

Disruptive conduct on the quality floor is currently not fined for a first violation, fined \$250 for a second violation and \$500 for a third. Multiple violations are calculated on a running two-year basis. Under the proposed increases, these fines will be \$500 for a first violation, \$2,000 for a second and \$3,500 for a third calculated on the same two-year basis.

More serious violations such as a member's failure to cooperate with a PCX examination of its financial responsibility or operational condition, will be fined \$2,000 for a first violation, \$4,000 for a second violation, and \$5,000 for a third violation. A member that impedes or fails to cooperate in an Exchange investigation will be fined \$3,500 for a first violation, \$4,000 for a second and \$5,000 for a third. Less serious violations such as fines or improper dress under the PCXE dress code remains the same at \$100 for the first violation, \$250 for the second and \$500 for the third. Under the proposed rule, the Enforcement Department would continue to exercise its discretion under PCXE Rule 10.12(j) and takes cases out of the Minor Rule Plan to pursue them as formal disciplinary matters if the facts or circumstances warrant such action. The Exchange's proposal also includes amendments to PCXE's Equity Floor Procedure Advices

³ The Exchange notes that when it imposes a sanction in excess of \$2,500, it must comply with Rule 19d-1 under the Act. 17 CFR 240.19d-1. Telephone conversation between Cindy Sink, Senior Attorney, Regulatory Policy, PCX, and Jennifer Colihan, Special Counsel, Division of Market Regulation, Commission, on June 8, 2001.

¹² 15 U.S.C. 78s(b)(2).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 U.S.C. 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

("EFPA") that correspond to the increased Minor Rule Plan fines.

The Exchange believes that adoption of the proposed rule change will serve to significantly strengthen the ability of the Exchange to carry out its oversight responsibilities as a self-regulatory organization. The rule also should aid the Exchange in carrying out its compliance and surveillance functions.

2. Basis

The Exchange believes that this proposal is consistent with section 6(b)⁴ of the Act, in general, and further the objectives of section 6(b)(5)⁵ and 6(b)(6),⁶ in particular, in that it is designed to facilitate transactions in securities, to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade and provides that Exchange members shall be appropriately disciplined for violations of the rules of the Exchange.

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 for Commission Action

Within 35 days of the date of 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 such 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,

including whether it 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, 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-2001-19 and should be submitted by July 9, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44404; File No. SR-Phlx-2001-51]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Increasing the Maximum Guaranteed AUTO-X Size to 100 Contracts

June 11, 2001.

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 May 21, 2001, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") 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 Phlx. The proposed rule change has been filed by the Phlx as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.³ 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 Phlx proposed to amend Phlx Rule 1080(c) to increase to 100 contracts the maximum order size of option contracts that are eligible to be executed on the Exchange's automatic execution system ("AUTO-X"), which is part of the Exchange's Automated Options Market ("AUTOM") System.⁴ Currently, customer market and marketable limit orders of up to 75 contracts are eligible for AUTO-X.⁵

Phlx also proposed to delete a section of Phlx Rule 1080(c) that states that orders for OTC Prime Index ("OTX") options are eligible for AUTO-X execution for up to 100 contracts.

Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in brackets.

* * * * *

Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X)

(a)-(b) No change.

(c) AUTO-X-AUTO-X is a feature of AUTOM that automatically executes public customer market and marketable limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options, unless the Options Committee determines otherwise. AUTO-X automatically executes eligible orders using the Exchange disseminated quotation and then automatically routes execution reports to the originating member organization. AUTOM orders not eligible for AUTO-X are executed manually in accordance with Exchange rules. Manual execution may also occur when AUTO-X is not engaged. An order may also be executed partially by AUTO-X and partially manually.

The Options Committee may for any period restrict the use of AUTO-X on the Exchange in any option or series. Currently, orders up to [75] 100 contracts, subject to the approval

⁴ AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually or routed to AUTOM's automatic execution feature, AUTO-X, if they are eligible for execution on AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

⁵ See Securities Exchange Act Release No. 43515 (November 3, 2000), 65 FR 69114 (November 15, 2000) (File No. SR-Phlx-99-32) (order approving maximum order size eligibility of 75 contracts for AUTO-X).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(6).