

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act; Meeting

Federal Register Citation of Previous Announcement: [67 FR 31856, May 10, 2002]
Status: Closed Meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Date and Time of Previously Announced Meeting: Monday, May 13, 2002, at 10 a.m.
Change in the Meeting: Additional item.

The following item has been added to the closed meeting scheduled for Monday, May 13, 2002:

Consideration of amicus participation.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: May 10, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-12188 Filed 5-10-02; 4:11 pm]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Notice

Federal Register Citation of Previous Announcement: [67 FR 31856, May 10, 2002].

Status: Closed Meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Date and Time of Previously Announced Meeting: Monday, May 13, 2002, at 10 a.m.
Change in the Meeting: Additional items.

The following items have been added to the closed meeting scheduled for Monday, May 13, 2002:

Opinion;
Adjudicatory matter; and
Cooperation with other regulatory organizations.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: May 10, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-12189 Filed 5-10-02; 4:11 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45895; File No. SR-Amex-2002-15]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC to Amend Commentary .02(c) of Amex Rule 901C to Include Volume Weighted Average Pricing as a Permissible Index Option Settlement Value Calculation Methodology

May 8, 2002.

I. Introduction

On March 5, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with 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 to amend Commentary .02(c) of Amex Rule 901C to add volume weighted average pricing ("VWAP") as a permissible index option settlement value calculation methodology for National Association of Securities Dealers Automated Quotation System ("NASDAQ") National Market System ("NMS") listed components. Notice of the proposed rule change was published for comment in the **Federal Register** on April 10, 2002.³ This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to amend Commentary .02(c) of Amex Rule 901C to add VWAP as a permissible index option settlement value calculation methodology for NASDAQ/NMS listed components. Currently, Commentary .02(c) of Amex Rule 901C provides that index settlement values are determined by using the regular way opening sale price for each of an index's component stocks in its primary market on the last

trading day prior to expiration.⁴ Unlike exchange-listed securities where there is a market opening price at which all investors entering a market-on-open order can participate, investors in NASDAQ/NMS securities cannot be sure of transactions at a price equal to the first reported print. In some instances, this price may be significantly different than the first price at which most investors can conduct transactions. As a result, investors, market-makers and the specialist cannot be sure that any hedges into which they may have entered will converge to the settlement value for the index; and, in some cases, the value of the hedge may differ significantly from the index settlement value. This uncertainty adds to the cost of trading the options and makes them less desirable to trade.

While it may still be difficult to get complete convergence, the Exchange believes that using the VWAP would provide more opportunity for investors to transact at a price near the settlement price, making it much less likely that there will be any significant difference between the hedge and the settlement value. For this reason, the Exchange proposes to permit, in addition to "regular way" opening price settlement, the VWAP settlement calculation methodology for NASDAQ/NMS listed components.

III. Discussion

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).⁵ Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5)⁶ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the

⁴ See, e.g., Securities Exchange Act Release No. 36283 (September 26, 1995), 60 FR 51825 (October 3, 1995) (SR-Amex-95-26) (order approving the listing and trading of options on the Morgan Stanley High Technology 35 Index).

⁵ 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 45692 (April 4, 2002), 67 FR 17475. In the notice, the Commission stated it would consider granting accelerated approval of the proposed rule change after a 15-day comment period.

public interest. The Commission believes that permitting the VWAP settlement calculation methodology for NASDAQ/NMS component securities of an index option may provide more opportunity for investors to transact at a price near the settlement price, and should result in a settlement value more reflective of the markets in NASDAQ/NMS securities.⁷

The Commission finds good cause for approving the proposed rule change before the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In the notice,⁸ the Commission indicated that it would consider granting accelerated approval of the proposal after a 15-day comment period. The Commission received no comments on the proposal during the 15-day comment period. The Commission believes it is reasonable to implement the proposal on an accelerated basis, in view of the anticipated benefits of the proposal. For these reasons, the Commission finds good cause for accelerating approval of the proposed rule change.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with Section 6(b)(5)⁹ in particular.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-AMEX-2002-15) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-12115 Filed 5-14-02; 8:45 am]

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⁷ This approval order limits use of the VWAP as a permissible index option settlement value calculation methodology for NASDAQ/NMS listed components. Should the Amex wish to use the VWAP as the methodology for securities other than NASDAQ/NMS component securities, the Commission expects the Exchange to file a proposed rule change for Commission consideration.

⁸ See footnote 3, *supra*.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45894; File No. SR-PCX-2002-23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Market Maker Auto-Ex Log On Requirements

May 8, 2002.

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 25, 2002, the Pacific Exchange, Inc. ("Exchange" or "PCX") 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 proposed rule change has been filed by the PCX 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

PCX proposes to amend its rules in order to eliminate the current requirements for Market Makers, set forth in PCX Rule 6.87(e)(4), to log on to PCX's automatic execution system ("Auto-Ex").⁴

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

* * * * *

Automatic Execution System

Rule 6.87

(a)-(d)—No change.

(e) Market Maker Requirements and Eligibility. Any Exchange Member who is registered as a Market Maker and who has obtained written authorization from a clearing member is eligible to participate on the Auto-Ex system, subject to the following conditions and requirements:

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ The PCX Auto-Ex system permits eligible market or marketable limit orders sent from member firms to be executed automatically at the displayed bid or offering price. Participating Market Makers are designated as the contra side to each Auto-Ex order on a rotating basis. Automatic executions through Auto-Ex are currently available for public customer orders at 250 contracts or less in all series of options traded on the PCX's options floor.

(1)-(3)—No change.

(4) *Reserved*. [Log on Requirement. A Market Maker who has been logged on to Auto-Ex in an option issue at any time during an expiration month must continue to be logged on to Auto-Ex in that issue whenever present in that trading crowd, until the close of business on the next Expiration Friday. A Market Maker who is limited to "closing only" transactions pursuant to PCX Rules or the requirements of that Market Maker's clearing firm will be exempt from this provision upon approval of two Floor Officials.]

(5)-(7)—No change.

* * * * *

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 July 10, 2000, the Exchange effected a new PCX rule establishing Auto-Ex log-on requirements for Market Makers.⁵ The current Auto-Ex rules outline the requirements with which a Market Maker (other than a Lead Market Maker ("LMM")) must comply in order to be eligible to participate on Auto-Ex. Among the requirements, a Market Maker who has been logged on to Auto-Ex in an option issue at any time during an expiration month must continue to be logged on to Auto-Ex in that issue whenever present in that trading crowd, until the close of business on the next expiration Friday. The PCX represents that, by implication, a Market Maker who logs off of Auto-Ex may not log back on until the beginning of the next expiration cycle. The Exchange voluntarily implemented the rule in order to encourage Market Makers to remain on Auto-Ex throughout the trading month.

After assessing the impact of the Auto-Ex log on requirement, the

⁵ See Securities Exchange Act Release No. 43150 (August 14, 2000), 65 FR 51390 (August 23, 2000).