

Nasdaq further states that the System also is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Trades executed using the System will be processed through ACT in the same manner as trades executed using other Nasdaq systems. As such, information on these trades will be incorporated in Nasdaq's audit trail, ACT's risk management function, and forwarded to DTCC for clearance and settlement, if necessary. Trades executed using the System also will be disseminated on the public tape.

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

Nasdaq does not believe that the proposed rule change will result in 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*

Prior to filing the Form PILOT, Nasdaq published a Notice to Members describing the operation of the System.<sup>19</sup> One letter was received in response thereto.<sup>20</sup>

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii),<sup>21</sup> subparagraph (f)(5) of Rule 19b-4,<sup>22</sup> and subparagraph (f)(2) of Rule 19b-5.<sup>23</sup> The proposal would permit Nasdaq to continue operating Primex until the Commission grants permanent approval, but not for a period longer than six months. The proposal does not modify any rule or the operation of Primex. As such, it does not affect the protection of investors or the public interest; does not impose any burden on competition; and does not have the effect of limiting access to or availability of the system.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>24</sup> the Commission may summarily abrogate

the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes 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 filings will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR-NASD-2002-58 and should be submitted by June 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>25</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-45981; File No. SR-PCX-2002-22]

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Bid-Ask Spread Differentials for Options**

May 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 22, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission

("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX. On May 3, 2002, the PCX filed an amendment to the proposed rule change.<sup>3</sup> 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 PCX is proposing to amend Exchange Rule 6.37 to increase the maximum bid/ask spread differential for options from \$.75 to \$.80 where the bid price of an option is greater than \$10 but does not exceed \$20. The text of the proposed rule change is set forth below. Additions are in italics; deletions are in brackets.

\* \* \* \* \*

Rule 6.37

\* \* \* \* \*

(b)(1) Bidding and/or offering so as to create differences of no more than

(A)-(C)—No change.

(D) no more than .80 [.75] where the bid is more than \$10 but does not exceed \$20, and

(E) No change.

(2)-(4)—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.

<sup>3</sup> Letter from Mai S. Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, dated May 2, 2002 ("Amendment No. 1"). The proposed rule change was originally submitted pursuant to Section 19(b)(3)(A)(i) of the Act and Rule 19b-4(f)(1) thereunder. The Exchange filed Amendment No. 1 to designate the filing as having been filed pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. The Exchange also requested the Commission to waive the 5-day pre-filing requirement and the 30-day delayed operative period.

<sup>19</sup> NASD Notice to Members 00-65 (September 2000).

<sup>20</sup> See letter from Antonio Cecin, Managing Director, Director of Equity Trading, US Bancorp Piper Jaffray, to Eugene Lopez, Senior Vice President, Nasdaq, dated January 2, 2001.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>22</sup> 17 CFR 240.19b-4(f)(5).

<sup>23</sup> 17 CFR 240.19b-5(f)(2).

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Pursuant to the industry-wide conversion of pricing from fractions to decimals, the Exchange converted all options prices in its rules to decimals, *i.e.*, dollars and cents. Among the rules affected by the conversion of prices was PCX Rule 6.37, which relates to obligations of market makers. This rule stated that in the course of maintaining fair and orderly markets, market makers could set price differentials of  $\frac{3}{4}$  of a point where the bid was more than \$10 but does not exceed \$20. Upon conversion to decimal pricing, the Exchange converted  $\frac{3}{4}$  of a point price differential to a \$.75 price differential.

A related rule regarding trading differentials provides that the maximum price variation ("MPV") for issues traded at \$3.00 or greater is \$.10. As a consequence of the conversion, the .10 MPV bars market makers from setting price differentials of 75 cents as exists under the current rules and instead requires them to quote the differentials as either \$.70 or \$.80. Because the \$.70 value provides less of a spread differential than was permitted before the conversion, and because current PCX Rule 6.37 does not permit a spread differential higher than \$.75, the Exchange proposes to amend Rule 6.37 to increase the price differential by \$.05 so that it may set the price differential to \$.80 for issues that trade for over \$3.00, but less than \$10.00.

2. Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and further the objectives of Section 6(b)(5),<sup>5</sup> in particular, in that it is designed to facilitate transactions in securities, 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.

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

The Exchange does not believe that the proposed rule change, as amended, 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**

Because the foregoing proposed rule change, as amended, does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate,<sup>6</sup> it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6)<sup>8</sup> thereunder. At any time within 60 days of the filing of Amendment No. 1 to the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The PCX has requested that the Commission accelerate the operative date. The Commission believes that it is consistent with the protection of investors and the public interest and therefore finds good cause to designate the proposal to become immediately operative upon filing. Acceleration of the operative date and waiver of the 5-day pre-filing requirement will permit the PCX to amend Rule 6.37 to reflect the PCX's \$.10 MPV without undue delay. For these reasons, the Commission finds good cause to designate that the proposal become operative immediately upon filing.<sup>9</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities

<sup>6</sup> The Exchange requested the Commission to waive 5-day pre-filing notice requirement and the 30-day operative period. See Amendment No. 1, *supra* note 3.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19-4(f)(6).

<sup>9</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 the File No. SR-PCX-2002-22 and should be submitted by June 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**DEPARTMENT OF STATE**

**[Public Notice 4031]**

**Culturally Significant Objects Imported for Exhibition; Determinations: "Neo-Impressionism: Artists on the Edge"**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Neo-Impressionism: Artists on the Edge," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Portland Museum of Art, Portland, ME from on or about June 27, 2002 to on or about October 20, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).