

persons, and approving Amendment No. 2 on an accelerated basis.

The proposed rule change would require all Members and Member Organizations to make, keep current, and preserve such books and records as the Exchange may prescribe and as those that may be prescribed by the Act and the rules and regulations thereunder (including any interpretation relating thereto). The proposed rule further provides that no Member or Member Organization may refuse to make available to the Exchange such books, records or other information as may be called for under the PCX rules or as may be requested in connection with an Exchange investigation.

With respect to maintaining daily position statements, the proposed rule generally provides that each Member and Member Organization must receive daily position statements with respect to securities held by the Options Clearing Corporation or any member thereof, the Depository Trust and Clearing Corporation or any similar clearing organization and must reconcile securities and money balances at least once per month by comparing those position statements against the Member or Member Organization's books and records. As proposed, each Member and Member Organization would be required to maintain reports that evidence reconciliation for at least six years, the first two years in an easily accessible place.

Finally, regarding error accounts, the proposed rule provides that each Member or Member Organization, which conducts business as a floor broker must make available to the Exchange, upon request, accurate and complete records of all trades cleared in such Member or Member Organization's error account. The proposed rule would also require that the error account records include certain audit trail data elements including, for example, name of the security, quantity, and the nature and amount of the error.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁶ and, in particular, the requirements of Section 6 of the Act⁷ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5)

of the Act⁸ because the proposed rule change requires the Exchange's members to maintain books and records in a manner that is consistent with federal securities laws. The Commission believes such consistency should foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Commission also believes that the requirements relating to the maintenance and reconciliation of daily position statements and error accounts should have similar beneficial results.

The Commission finds good cause for approving proposed Amendment No. 2 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In Amendment No. 2, the Exchange clarified that members must make every effort to resolve differences that may occur on position statements. The Commission believes that Amendment No. 2 should strengthen PCX's rule by requiring members to resolve inaccuracies. Therefore, the Commission believes that good cause exists pursuant to Sections 6(b)(5)⁹ and 19(b)¹⁰ of the Act to accelerate approval of Amendment No. 2 to the proposed rule change.

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 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-2002-26 and should be submitted by October 18, 2002.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-PCX-2002-26), as amended by Amendment No. 1, is approved, and Amendment No. 2 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46517; File No. SR-PCX-2002-50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Automatic Execution of Broker-Dealer Orders in Designated Option Issues

September 20, 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 July 29, 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. PCX filed Amendment No. 1 to the proposed rule change on August 26, 2002.³ The Exchange filed the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(6) thereunder,⁵ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹ 15 U.S.C. 78s(b)(2).

² 17 CFR 200.30-3(a)(12).

³ 15 U.S.C. 78s(b)(1).

⁴ 17 CFR 240.19b-4.

⁵ In Amendment No. 1, the Exchange added a clarifying phrase to its proposed rule text in order to define the "top 120" most actively traded option issues. See letter from Mai S. Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated August 23, 2002 ("Amendment No. 1").

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

⁶ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78s(b).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX is proposing to amend its rules to permit certain broker-dealer orders to be eligible for automatic execution on the Exchange's Automatic Execution System ("Auto-Ex"). Specifically, the proposed rule change would cover broker-dealer orders for the lesser of five contracts or the Exchange's disseminated size in option issues that are ranked in the 120 most actively traded options. The text of the proposed rule change is below. Proposed new language is *italicized*; deletions are in brackets.

* * * * *

Automatic Execution System

Rule 6.87(a)—No change.

(b) Eligible Orders

(1)—No change

(2) *Notwithstanding subsection (1), above, broker-dealer orders for the lesser of five contracts or the Exchange's disseminated size are eligible for automatic execution on the Exchange's Auto-Ex System in option issues that are ranked in the 120 most actively traded equity options based on the total number of contracts traded nationally as reported by the Options Clearing Corporation. For each current month, the Exchange's determination of whether an equity option ranks in the top 120 most active issues will be based on volume statistics for the one month of trading activity that occurred two months prior to the current month.*

(3) [(2)] If [the OFTC permits] broker-dealer orders are eligible to be automatically executed in an issue pursuant to this Rule, then the OFTC [it] may also permit the following with respect to such orders:

(A)–(C)—No change.

(4)–(7) [(3)–(6)]—No change.

(c)–(e)—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 November 6, 2001, the Commission approved an Exchange proposal to permit broker-dealer orders to be automatically executed on Auto-Ex.⁶ Pursuant to that rule change, broker-dealer orders are eligible for automatic execution in particular option issues, subject to the approval of the Options Floor Trading Committee ("OFTC").⁷ Order size eligibility and other execution parameters for broker-dealer orders are also subject to OFTC approval.⁸

The Exchange is now proposing to adopt a new rule that would make broker-dealer orders eligible for automatic execution if: (a) They are for five contracts or the Exchange's disseminated size (whichever amount is less);⁹ and (b) they are designated to purchase or sell options that are ranked in the 120 most actively traded equity options based on the total number of contracts traded nationally for a specified month based on volume as reported by the Options Clearing Corporation ("OCC").

While the size parameter in the proposed rule would establish a maximum number of contracts that are eligible for automatic execution on Auto-Ex pursuant to this rule change, the size parameter could be increased to a number greater than five (but no greater than 250) pursuant to current PCX Rule 6.87(b)(5), which grants the OFTC the authority to establish the order size parameter for Auto-Ex on an issue-by-issue basis.¹⁰

The Exchange's determination of whether an equity option ranks in the

⁶ See Securities Exchange Act Release No. 45032 (November 6, 2001), 66 FR 57145 (November 14, 2001).

⁷ *Id.*

⁸ *Id.*

⁹ For example, when an incoming broker-dealer order is for five contracts and the Exchange's disseminated size is three contracts, the entire broker-dealer order will be kicked out into the trading crowd for manual handling and will not be executed on Auto-Ex. On the other hand, when an incoming broker-dealer order is for three contracts and the Exchange's disseminated size is five contracts, the entire broker-dealer order will be executed on Auto-Ex. Telephone conversation among Mai S. Shiver, Senior Attorney, Regulatory Policy, PCX; Michael Pierson, Vice President, Regulatory Policy, PCX; Gordon Fuller, Counsel to Assistant Director, Division, Commission; and Jennifer Lewis, Attorney, Division, Commission; on September 12, 2002.

¹⁰ See also current PCX Rule 6.87(b)(2)(A), which permits the OFTC to set an Auto-Ex size parameter for broker-dealer orders that is less than the size parameter for non-broker-dealer customer orders in the same issue.

top 120 most active, nationally-traded issues will be based on volume statistics reported by the OCC.¹¹ The list of designated issues for each current month will be based on volume statistics for the one month of trading activity that occurred two months prior to the current month. For example, February's list of top 120 issues will be based on December's volume, March's list of top 120 issues will be based on January's volume, and so forth. Thereafter, the Exchange will continue to designate the top 120 issues based on a two-month lag time. The Exchange intends to notify its members of the issues that are designated to be in the top 120 via a regulatory bulletin that will be published at the beginning of each month.

The Exchange believes that implementation of the proposal will enhance its ability to compete with other options exchanges for order flow.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act¹² in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

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.

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

The PCX has designated the foregoing as a proposed rule change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter date as the

¹¹ The Exchange notes that it intends to use the same procedure for designating the top 120 most actively traded issues that it currently uses in designating such issues for purposes of its "shortfall fee." See Securities Exchange Act Release No. 45351 (January 29, 2002), 67 FR 5631 (February 6, 2002).

¹² 15 U.S.C. 78f(b)(5).

Commission may designate, if consistent with the protection of investors and the public interest. Rule 19b-4(f)(6)(iii) under the Act¹³ requires that the self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing date. The PCX has complied with this requirement¹⁴. Therefore, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6)¹⁶ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The PCX has requested, in order to permit the Exchange to maintain competition and efficiency, that the Commission accelerate the operative date of the proposed rule change so that it may take effect immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁸ Accordingly, the proposed rule change became effective on August 26, 2002, the date on which Amendment No. 1 was filed with the Commission.

At any time within 60 days of August 26, 2002, 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.

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 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-2002-50 and should be submitted by October 18, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-24609 Filed 9-26-02; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9R57]

State of Louisiana; Disaster Loan Areas

Cameron, Jefferson, Lafourche and Terrebonne Parishes and the contiguous Parishes of Assumption, Calcasieu, Jefferson Davis, Orleans, Plaquemines, St. Charles, St. James, St. John the Baptist, St. Mary and Vermillion in the State of Louisiana; and Jefferson and Orange Counties in the State of Texas constitute an economic injury disaster loan area as a result of an extensive cold front reaching far into the coastal areas of Southern Louisiana on May 13 through May 23, 2002. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on June 20, 2003 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rate for eligible small businesses and small agricultural cooperatives is 3.5 percent.

¹⁹ 17 CFR 200.30-3(a)(12).

The number assigned for economic injury for this disaster is 9R5700 for the State of Louisiana and 9R5800 for the State of Texas.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: September 20, 2002.

Hector V. Barreto,
Administrator.

[FR Doc. 02-24557 Filed 9-26-02; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3443]

State of Wyoming; Disaster Loan Areas

Johnson County and the contiguous counties of Big Horn, Campbell, Converse, Natrona, Sheridan and Washakie in the State of Wyoming constitute a disaster area as a result of severe storms and flooding that occurred on August 27 and August 28, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 19, 2002 and for economic injury until the close of business on June 20, 2003 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 344311 and for economic damage is 9R5900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 20, 2002.

Hector V. Barreto,
Administrator.

[FR Doc. 02-24556 Filed 9-26-02; 8:45 am]

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¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ See letter from Michael D. Pierson, Vice President, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, dated July 17, 2002.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ *Id.*

¹⁸ For purposes of accelerating the operative date of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).