

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

1. Purpose

The purpose of the proposed rule change is to change the name of the Island Futures Exchange, LLC to the Inet Futures Exchange, LLC. Under the proposed rule change, IFX is amending references in Inet's Constitution and Rules that specifically refer to the name of the Exchange to reflect the defined term "Exchange," which IFX also proposes to modify to accommodate the name change. Moreover, IFX proposes a new definition for the term "Trading System" to ease the identification of the Trading System within Inet's Rules.

2. Statutory Basis

This filing and the enclosed Rules are submitted pursuant to section 19(b)(7) of the Act.⁴ The Rules are consistent with the purpose and requirements of the Commodity Futures Modernization Act of 2000⁵ and section 6 of the Act of 1934⁶ in that it reflects the name change of the Inet Futures Exchange, LLC from its previous name of Island Futures Exchange, LLC.

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

IFX does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on Proposed Rule Changes Received From Members, Participants, or Others

IFX neither solicited nor received written comment on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The proposed rule change became effective on December 5, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.⁷

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-IFX-2004-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 these filings will also be available for inspection and copying at the principal office of the IFX. All submissions should refer to File No. SR-IFX-2004-01 and should be submitted by March 5, 2004.

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. 34-49208; File No. SR-OCC-2003-08]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Related to Delivery Settlement of Exercised Stock Options and Mated Stock Futures

February 9, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 22, 2003, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule

change described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

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

OCC is seeking to restructure its rules applicable to delivery settlement of exercised stock options and mated stock futures.

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

In its filing with the Commission, OCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

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

The purpose of the proposed rule change is to:

(1) Restructure OCC's rules applicable to physical settlement of exercised stock options and mated stock futures to reflect that such settlements are normally effected through the National Securities Clearing Corporation ("NSCC") (*i.e.*, the correspondent clearing corporation) with broker-to-broker ("BTB") settlement procedures as a backup;

(2) Require that BTB settlements be made on a delivery-versus-payment ("DVP") basis at The Depository Trust Company ("DTC") unless OCC directs otherwise;

(3) Revise OCC's rules applicable to delivery settlement effected on a BTB basis in order to reflect the enhanced system capabilities to track such settlements offered by ENCORE Release 4.0, which is scheduled for installation on September 26, 2003;³

(4) Revise OCC's rules relating to buy-ins and sell-outs to parallel NSCC's

² The Commission has modified the text of the summaries prepared by OCC.

³ ENCORE Release 4.0, which includes updated systems for settlement of physical delivery stock options and stock futures, is the next major installation in OCC's multiyear project to rewrite its clearance and settlement system.

⁴ 15 U.S.C. 78s(b)(7).

⁵ Pub. L. 106-554, 114 Stat. 2763 (2000).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78s(b)(1).

⁸ 17 CFR 200.30-3(a)(75).

¹ 15 U.S.C. 78s(b)(1).

rules relating to buy-ins in respect of security balance orders;

(5) Revise OCC's rule relating to protect provisions so OCC rules parallel NSCC's rules relating to protect provisions with respect to security balance orders.

OCC's by-laws define an "underlying security" with respect to physically settled stock options and stock futures to mean the security or other asset that OCC is obligated to sell or purchase upon exercise or maturity of the contract. Normally, underlying securities are delivered and paid for through the facilities of NSCC, but under certain circumstances, settlement must be made on a BTB basis.⁴ If more than one underlying security is deliverable with respect to an exercised or matured contract, ENCORE Release 4.0 will treat the delivery of each underlying security as a separate settlement obligation. Payment of the aggregate purchase price for an underlying security will also be treated as a separate settlement obligation.⁵ As is the case today, OCC will allocate a percentage of the exercise price or the final settlement price to each underlying security to be delivered.⁶

OCC will provide clearing members with Delivery Advices indicating whether settlements are to be effected via NSCC or on a BTB basis. Delivery Advices will specify settlement information for the clearing member including each underlying security to be delivered or received, the aggregate purchase price to be received or paid, the delivery date, the exercise price or final settlement price, the percentage of the exercise price allocated to the underlying security, the contra clearing member to the settlement (for BTB settlements), and in the case of options, the activity (*i.e.*, exercise or assignment) giving rise to the settlement obligation.

OCC will normally require that BTB settlements be made on a DVP basis through the facilities of DTC in order to avoid the need for OCC to margin "Herstatt risk" (*i.e.*, the risk that a party may fail to make delivery or payment, as the case may be, after having itself received payment or delivery).

⁴ Such circumstances include cases when NSCC excludes an underlying security from its continuous net settlement system or when OCC suspends a clearing member with pending settlements that have not yet been guaranteed by NSCC.

⁵ If the underlying security includes a cash component (*e.g.*, cash in lieu amounts or the proceeds of a cash merger), the cash is settled through OCC's cash settlement system.

⁶ An adjustment of a contract in response to a corporate action may result in more than one underlying security being deliverable upon exercise or maturity. OCC By-Laws, Article VI, Section 11 and Article XIII, Section 4.

However, the proposed rule change retains provisions for BTB settlements outside DTC to provide for the rare case where an underlying security may not be DTC-eligible and reflects the enhanced ENCORE Release 4.0 system capabilities to process and monitor BTB settlements. For BTB settlements, the delivering clearing member will enter into ENCORE the number of units of the underlying security delivered (up to the total delivery requirement) and the amount received in respect thereof. The receiving clearing member will enter the number of units of the underlying security received and the amount paid. These entries can occur at different times. Only if the entries match (*i.e.*, the number of units delivered equals the number received or the amount received equals the amount paid, as the case may be) will the settlement obligation be discharged. In the event that the matched number of units or payment amounts is less than the total settlement obligation, only the deficiency will be treated as unsettled. An entry for which no response has been given by the second business day after its posting will be deemed settled provided that the specified delivery date has passed. Contradictory entries will be treated as unmatched items and will be deemed unsettled. All unsettled obligations will be margined.⁷ Partial deliveries will be permitted but only in round lots except where an adjustment has resulted in a unit of trading other than a round lot, in which case partial deliveries will also be permitted in the odd lot component or multiples thereof.⁸

Chapter IX of OCC's Rules sets forth the delivery and payment rules for stock options and stock futures. Those Rules will be restructured to reflect that settlement normally occurs through NSCC with BTB settlement as the backup. Consistent with other OCC Rule Chapters, an introductory section has been added to Chapter IX of the Rules. This introductory section sets forth OCC's authority to designate a settlement method with regard to exercised stock options and matured stock futures, OCC's general policy to effect such settlement through NSCC, and OCC's authority to alter a previous designation of a settlement method. Former Rule 913, which concerns settlements through NSCC, has been

⁷ The total obligation will continue to be margined until the installation of the margin subsystem.

⁸ For example, where the unit of trading for an adjusted contract is 133 shares, a writer of three assigned calls could deliver in increments of 100 shares, 200 shares, 300 shares, 33 shares, 66 shares, and/or 99 shares, separately or in any combination up to a total of 399 shares.

renumbered as Rule 901. Other conforming changes have been made to the Rule to reflect the general policy that settlement will occur through NSCC.

Former Rules 901 through 907, which pertain to BTB settlements, have been renumbered as Rules 902 through 908. These Rules, along with Rule 909, have been modified to reflect the enhanced system for monitoring and tracking BTB settlements described above. Rules 910 and 911, which concern fails to deliver and receive, respectively, and 910A, which concerns protect procedures, have been modified to more closely parallel applicable provisions of NSCC's rules. Obsolete rule references have been deleted, and conforming changes have been made to other by-law and rule provisions as necessary.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁹ and the rules and regulations thereunder applicable to OCC because it will promote the prompt and accurate clearance and settlement of securities transactions by enhancing physical settlement of exercised options and matured security futures.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would 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 were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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

Within thirty-five 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 ninety 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.

⁹ 15 U.S.C. 78q-1.

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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-OCC-2003-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at www.optionsclearing.com. All submissions should refer to File No. SR-OCC-2003-08 and should be submitted by March 5, 2004.

All submissions should refer to File No. SR-OCC-2003-08 and should be submitted by March 5, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49207; File No. SR-PCX-2004-04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Amend Its Schedule of Fees and Charges to Temporarily Waive Market Maker Fees for Market Makers That Use More Than One Seat

February 6, 2004.

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 January 28, 2004, 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 Exchange. The PCX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the PCX under section 19(b)(3)(A)(ii) of the Act,³ which renders the proposal effective upon filing with the Commission. 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 amend the Market Maker Fees portion of its Schedule of Fees and Charges ("Schedule") to adopt a temporary waiver of the Market Maker fees for those Market Makers that use more than one seat. The text of the proposed rule change is available at the PCX and at the Commission.

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 its proposal and discussed any comments it received regarding the proposal. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

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 the Market Maker Fees portion of the Schedule to adopt a temporary waiver of the Market Maker fees for those Market Makers that use more than one seat.

Under the current Schedule, all Market Makers are assessed a fee of \$1,750 per month for each seat that such Market Maker holds a primary appointment. In connection, PCX Rule 6.35(g)(2) permits Market Makers to increase the number of issues within their primary appointments depending on the number of seats that the Market Maker holds.⁴ Hence, a Market Maker benefits with additional issues as a result of holding multiple seats.

The Exchange proposes to temporarily waive the \$1,750 Market Maker fee for all Market Makers for each additional seat (for which the Market Maker holds a primary appointment) beyond the first seat held by such Market Maker. In other words, a Market Maker will only be assessed one Market Maker fee of \$1,750 per month whether the market Maker utilizes one seat or multiple seats. The PCX believes that a temporary waiver of the Market Maker fee in this limited circumstance is appropriate to encourage participation by a larger number of Market Makers on PCX Plus. As PCX Plus continues to expand, this temporary waiver will provide Market Makers with an incentive to take on a larger number of issues without incurring additional Market Maker fees. Therefore, the added participation should result in increased liquidity, which, in turn, will further competition. This waiver will remain in effect until April 30, 2004, or such earlier date as determined by the Exchange.⁵

2. Statutory Basis

The Exchange believes the proposal is consistent with section 6(b) of the Act,⁶ in general, and section 6(b)(4) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The Exchange does not believe that the proposed rule change will impose

⁴ See PCX Rule 6.35(g)(2).

⁵ The Commission notes that the PCX is required to file a proposed rule change if it decides to terminate the fee waiver before April 30, 2004.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

¹⁰ 17 CFR 200.30-3(a)(12).