

Under these new procedures, the membership is no longer required to complete Form 120-A. Therefore, the Exchange proposes to delete the provisions in NYSE Rule 440H relating to Form 120-A. What remains in the amended rule is a more concise requirement that the membership pays Activity Assessment Fees at such times and intervals as prescribed by the Exchange, and a description of how the Exchange will calculate those fees. The title and language of the amended rule reflects the change in terminology from "Transaction Fees" to "Activity Assessment Fees."

## 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with the provisions of Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>14</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among NYSE members.

### 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change, as amended, establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>15</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>16</sup> Accordingly, the proposal, as amended, will take effect upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, 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.<sup>17</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. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>; or
- Send an E-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NYSE-2005-39 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-NYSE-2005-39. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of the NYSE.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2005-39 and should be submitted by August 9, 2005.

<sup>17</sup> The effective date of the original proposed rule change is June 1, 2005 and the effective date of the amendment is July 6, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on July 6, 2005, the date on which the NYSE submitted Amendment No. 1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

Jill M. Peterson,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52010; File No. SR-OCC-2005-06]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Amend By-Laws and Rules To Accommodate Short-Term Options Proposed for Trading by the Chicago Board Options Exchange, Inc., the American Stock Exchange, LLC, the International Securities Exchange, Inc., and the Pacific Exchange, Inc.

July 12, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 10, 2005, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") and on June 13, 2005, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested parties and to grant accelerated approval of the proposal.

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

The purpose of this proposed rule change is to amend OCC's By-Laws and Rules to accommodate short-term options proposed for trading by the American Stock Exchange, LLC, ("Amex"), the Chicago Board Options Exchange, Inc. ("CBOE"), the International Securities Exchange, Inc. ("ISE"), and the Pacific Exchange, Inc. ("PCX") (collectively referred to as "Exchanges").

#### 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

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

<sup>13</sup> 15 U.S.C. 78(f)(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

*(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 amend OCC's By-Laws and Rules to accommodate short-term options proposed for trading by the Exchanges. On February 9, 2005, the Commission published notice of CBOE's proposal to amend its rules to permit the listing of options series that expire one week after being opened for trading.<sup>3</sup> The Amex, ISE, and PCX also have submitted proposals to amend their rules to permit the listing of short-term options.<sup>4</sup> Under this proposal, a short-term option series could be opened in any class of options that otherwise satisfies the applicable listing criteria of any participant exchange having rules for the trading of short-term options. Short-term option series could be American style or European style. Short-term option series typically would open on Friday and expire the following Friday. If Friday were not a business day, the short-term option series would be opened or would expire on the first business day immediately prior to that Friday.

Under the Exchanges' proposals, short-term option series with an underlying on which monthly contracts are A.M.-settled will be A.M.-settled, and short-term option series with an underlying on which monthly contracts are P.M.-settled will be P.M.-settled.<sup>5</sup> No short-term option series on an option class will expire in the same week in which monthly option series of the same class expire.

Under the Exchanges' proposals, short term options would be traded initially under a one-year pilot program. Under the terms of the pilot program, the Exchanges will select up to five option classes on which short-term option series may be opened on any short-term option opening date. The Exchanges

also will be permitted to list those short-term option series on any option class that is selected by other securities exchanges that use a similar pilot program under their respective rules. Limiting the number of new options series created under this pilot program should help prevent a significant impact on system capacities of the Exchanges and of the Options Price Reporting Authority.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>6</sup> and the rules and regulations thereunder applicable to OCC because it is designed to promote the prompt and accurate clearance and settlement of securities transactions, foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, protect investors and the public interest. The proposed rule achieves these objectives by applying to short-term options the same By-Laws and Rules that are applicable to other classes of options.

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

OCC does not believe that the proposed rule change will have any impact or 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 changes and none have been received.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).<sup>7</sup> Section 17A(b)(3)(F) requires that the rules of a clearing agency remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions and protect investors and the public interest. The Commission finds that the approval of OCC's rule

change is consistent with this section because it will allow OCC to apply the same By-Laws and Rules to short-term options as it does other options classes.

OCC has requested that the Commission approve the proposed rule prior to the thirtieth day after publication of the notice of the amended filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow the Exchanges proposing to trade short-term options to commence doing so without any unnecessary delay.

**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. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2005-06 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-OCC-2005-06. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site, <http://www.sec.gov>

<sup>2</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>3</sup> Securities Exchange Act Release No. 51172 (February 9, 2005), 70 FR 7979 (February 16, 2005) [File No. SR-CBOE-2004-63].

<sup>4</sup> File Nos. SR-Amex-2005-035, SR-PCX-2005-32, SR-ISE-2005-17.

<sup>5</sup> S&P 100 Index Options ("OEX") and iShares S&P 100 Index Fund ("OEF") currently are the only P.M.-settled monthly options series.

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

[www.optionsclearing.com](http://www.optionsclearing.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2005-06 and should be submitted on or before August 9, 2005.

## V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-OCC-2005-06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52013; File No. SR-PCX-2005-32]

### Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto To List and Trade One Week Option Series

July 12, 2005.

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 March 16, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. PCX filed Amendment No. 1 with the Commission on April 5, 2005.<sup>3</sup> This notice and order requests comment on the proposal from interested persons and approves the amended proposal on an accelerated basis.

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

The Exchange proposes to establish a pilot program to list and trade option series that expire one week after being opened for trading ("One Week Option Series"). The Exchange proposed that the pilot program extend one year from the date of this approval. The text of the proposed rule change, as amended, is available on PCX's Web site ([http://www.pacificex.com/legal/legal\\_pending.html](http://www.pacificex.com/legal/legal_pending.html)), at PCX's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposal and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. 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

The Exchange proposes to establish a pilot program to list and trade One Week Option Series, which would expire one week after the date on which a series is opened. Under the proposal, the Exchange could select up to five approved option classes<sup>4</sup> on which One Week Option Series could be opened. A series could be opened on any Friday that is a business day ("One Week Option Opening Date") and would expire at the close of business on the next Friday that is a business day ("One Week Option Expiration Date"). If a Friday were not a business day, the series could be opened (or would expire) on the first business day immediately prior to that Friday.

The proposal would allow the Exchange to open up to five One Week Option Series for each One Week Option Expiration Date. The strike price for each series would be fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying

security, or the calculated index value in the case of an index class, at about the time that One Week Option Series was opened for trading on the Exchange. No One Week Option Series on an option class would be opened in the same week in which a monthly option series on the same class is expiring, because the monthly option series in its last week before expiration is functionally equivalent to the One Week Option Series. The intervals between strike prices on One Week Option Series would be the same as with the corresponding monthly option series.

The Exchange believes that One Week Option Series would provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. At the same time, the Exchange is cognizant of the need to be cautious in introducing a product that can increase the number of outstanding strike prices. For that reason, the Exchange proposes to employ a limited pilot program for One Week Option Series. Under the terms of the pilot program, the Exchange could select up to five options classes on which One Week Option Series may be opened on any One Week Option Opening Date. The Exchange also could list and trade any One Week Option Series on an option class that is selected by another exchange with a similar pilot program. The Exchange believes that limiting the number of option classes on which One Week Option Series may be opened would help ensure that the addition of the new series through this pilot program would have only a negligible impact on the Exchange's and OPRA's quoting capacity. Also, limiting the term of the pilot program to a period of one year would allow the Exchange and the Commission to determine whether the One Week Option Series program should be extended, expanded, and/or made permanent.

As originally proposed, all One Week Option Series would be P.M.-settled. However, in Amendment No. 1, the Exchange revised the proposal to provide that One Week Option Series would be P.M.-settled, except for One Week Option Series on indexes, which would be A.M.-settled.

The Exchange represents that it has the system capacity to adequately handle the new option series contemplated by this proposal. The Exchange provided the Commission information in a confidential submission to support that representation.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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.

<sup>3</sup> Amendment No. 1 revised the settlement times for the proposed One Week Options Series.

<sup>4</sup> One Week Option Series could be opened in any option class that satisfied the applicable listing criteria under PCX rules (*i.e.*, stock options, options on Exchange Traded Fund Shares (as defined under PCX Rule 5.3), or options on indexes).