

million annually, which Nasdaq seeks to recover through this fee.

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>3</sup> which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

#### *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 persons of the Act, as amended.

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

Written comments were neither solicited nor received.

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

Within 35 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 90 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.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 NASD. All submissions should refer to file number SR-NASD-97-54 and should be submitted by September 9, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-21907 Filed 8-18-97; 8:45 am]

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-38927; File No. SR-PCX-97-21]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Suspension of its Automatic Execution System ("Auto-Ex") During Unusual Market Conditions**

August 12, 1997.

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 June 4, 1997, the Pacific Exchange, Inc. ("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 self-regulatory organization.<sup>3</sup> 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 is proposing to adopt new rules on the suspension of its Automatic Execution System ("Auto-Ex") for options trading during unusual market conditions, and the maximum bid-ask spread differentials that are permitted during unusual market conditions. The text of the proposed rule change is available at the Exchange.

<sup>4</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> This notice includes Amendment No. 1 to the proposed rule change, supplementing the Statement of Purpose in Section II, which was filed with the Commission on August 8, 1997. See letter from Michael D. Pierson, Office of Regulatory Policy, Pacific Exchange, to Mandy S. Cohen, Office of Market Supervision, Division of Market Regulation, Commission (dated August 7, 1997).

#### **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 self-regulatory organization 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 self-regulatory organization 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*

##### *Statement of Purpose*

The Exchange is proposing to modify its Rule 6.28 ("Unusual Market Conditions") to address situations involving system failures, ranging from "frozen screens" in an issue (where quote changes are entered into the system, but such changes are not reflected in the market being disseminated) to a floor-wide system malfunction of the POETS system (where all screen displays on the floor fail).<sup>4</sup> Rule 6.28 currently provides that whenever an Options Floor Official determines that "an unusual condition or circumstance" exists, because of an influx of orders or other unusual conditions or circumstances, and the interests of maintaining a fair and orderly market so require, such official may declare a "fast market" in one or more classes of option contracts.<sup>5</sup> The proposed amendments are designed to provide additional safeguards and procedures to deal with such situations.

First, the Exchange is proposing to modify subsection (a) of Rule 6.28 to require the agreement of two Options Floor Officials before a "fast market" can be declared. Second, the Exchange is proposing to add a new subsection (b)(7), to allow the Options Floor Officials who have declared a fast market to suspend the Auto-Ex if, because of an influx of orders or other unusual market conditions or circumstances, they determine that such action is appropriate in maintaining a fair and orderly market. The initial suspension of Auto-Ex is limited to five minutes and a Floor Governor must be notified immediately. Suspension of

<sup>4</sup> "POETS" is an acronym for the Pacific Options Exchange Trading System.

<sup>5</sup> See also PCX Options Floor Procedure Advice G-9 ("Fast Market Procedures").

<sup>3</sup> 15 U.S.C. § 78o-3.

Auto-Ex may be continued, or its operation resumed for a longer period following determination by two Options Floor Officials and one Floor Governor (or a senior operations officer if no Floor Governor is available) determine that such action is appropriate. In the event that the three officials do not agree, a 2/3 majority prevails.<sup>6</sup> Upon suspension of the Auto-Ex system, all market and marketable limit orders thereafter entered through the Exchange's Member Firm Interface will be routed to a booth on the Floor designated by the firm that entered the order. The order can then be taken to the crowd manually and represented by a floor broker.

The Exchange is also proposing to amend Rule 6.37 ("Obligations of Market Makers") by adding a new subsection (b)(4), which provides that if the interest of maintaining a fair and orderly market so requires, two Floor Officials may declare a fast market and allow Market Makers in an issue to make bids and offers with spread differentials of up to two times, or in exceptional circumstances, up to three times, the legal limits permitted under Rule 6.37(b)(1). The rule further directs such Floor Officials to consider the following factors in making the determination to allow wider markets: (A) whether there is an extreme influx of option orders due to pending news, a news announcement or other special events; (B) whether there is an imbalance of option orders in one series or on one side of the market; (C) whether the underlying security is trading outside the bid or offer in such security then being disseminated; (D) whether Floor Members receive no response to orders placed to buy or sell the underlying security; and (E) whether a vendor quote feed for POETS is clearly stale or unreliable.

The Exchange is also proposing to amend its Rule 6.87 ("Automatic Execution System"), by adding three new subsections relating to suspensions of Auto-Ex. Whenever a POETS system or vendor quote feed malfunction affects the Exchange's ability to disseminate or update market quotes on a floor-wide basis, the senior person then in charge of the Exchange's Control Room will be able to halt Auto-Ex on a floor-wide basis, upon declaration of a "fast market" by two Floor Officials.<sup>7</sup>

Similarly, if a POETS malfunction occurs and Market Makers are physically unable to update their quotations in an issue or issues at the same trading post or trading quad, two

Floor Officials may declare a "fast market" and direct the order book official ("OBO") to turn off the Auto-Ex system in only the affected issue or issues.<sup>8</sup> Under either scenario, once the system malfunction has been corrected that the market quotes have been updated, two Floor Officials (or the senior person then in charge of the Control Room in the event of a floor-wide malfunction) may re-start Auto-Ex.<sup>9</sup>

#### Statutory Basis

The proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

#### Relation to Rule of Other Self-Regulatory Organizations

The proposed rule change is based, in part, on Rules 6.6(e) and 6.8.03 of the Rules of the Chicago Board Options Exchange ("CBOE").

#### 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

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

Within 35 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 90 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 rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

<sup>8</sup> Proposed subsection (d)(2), Non-Floor-Wide POETS System Malfunction. Proposed subsection (d)(3) ("Other Unusual Conditions") further provides that if there are other unusual market conditions not involving a POETS System malfunction, two Floor Officials may suspend Auto-EX in accordance with Rule 6.28(b).

<sup>9</sup> Cf. CBOE Rule 6.8, Interpretation and Policy .03.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-PCX-97-21 and should be submitted by September 9, 1997.

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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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38924; File No. SR-Phlx-97-36]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Equity and Index Option Specialist Enhanced Parity Split Participants

August 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 24, 1997, the Philadelphia Stock Exchange, Inc. ("PHLX" 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 self-regulatory organization. The Commission is publishing this notice to

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

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

<sup>6</sup> Cf. CBOE Rule 6.6(e).

<sup>7</sup> Proposed subsection (d)(1), Floor-Wide POETS System Malfunction.