

Amendment No. 1 to the proposed rule change.² The proposal, as amended, is described in Items I and II below, which Items have been prepared by the CSE. 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 CSE proposes to amend Rule 11.9(u), Interpretation .01, concerning customer market order exposure requirements. Proposed new text is in italics; deleted text is in brackets.

Rule 11.9 National Securities Trading System

(a) through (u) No Change.

Interpretations and Policies

.01 [Price Improvement Opportunity] Market Order Exposure Requirement

Consistent with his or her agency responsibility to exercise due diligence, a member must comply with the following procedures which provide the opportunity for public agency buy/sell *market* orders to receive a price lower/higher than the disseminated national best offer/bid.

[(a) Market Order Exposure—] Except under unusual market conditions or if it is not in the best interests of the customer, when the spread between the national best bid and offer is greater than the minimum price variation, a member must either immediately execute the *market* order at an improved price or expose the *market* order on the Exchange for a minimum of [thirty] *fifteen* seconds in an attempt to improve the price.

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 CSE included statements concerning the purpose of, and statutory 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 CSE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

On June 17, 1997, the Exchange issued Regulatory Circular 97-07 which, among other things, clarified a Member's obligations under Rule 11.9 in light of the securities industry's move to finer trading increments (*i.e.*, $\frac{1}{16}$ point). The Exchange has now determined, based on its experience with specialists quoting and trading in finer increments, that exposing a market order for thirty seconds creates additional risks to the specialists. The Exchange believes that a fifteen second exposure will balance the risks to specialists and the need to provide customers a meaningful opportunity for price improvement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,³ and furthers the objectives of Section 6(b)(5)⁴ in particular. The proposed rule change is designed to balance certain risks to specialists thereby promoting just and equitable principles of trade. In addition, the proposal will provide customers an opportunity for price improvement thereby furthering the mechanism of a free and open market and a national market system.

B. Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

Comments were neither solicited nor received in connection with the proposed rule change.

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, 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, 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 filings will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to the File No. SR-CSE-97-13 and should be submitted by April 1, 1998.

For the Commission by the Division of Market Regulation, pursuant to the delegated authority.⁵

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39719; File No. SR-PCX-98-08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Assessment for New Facilities

March 4, 1998.

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 February 9, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory

² See letter from Adam W. Gurwitz, Vice President Legal and Corporate Secretary, CSE, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated February 25, 1998.

³ 15 U.S.C. § 78f.

⁴ 15 U.S.C. § 78f(b)(5).

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

organization. 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 PCX is proposing to assess the owners of each of the 552 Exchange memberships in order to provide an equity base for financing land and new facilities for the Exchange. These facilities will include new trading floors, technology facilities, office space and equipment.

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

1. Purpose

The Exchange is proposing to assess the owners of each of its 552 memberships \$36,000, to be paid by each membership owner in monthly installments of \$1,000. The installments are payable on a monthly basis and may not be paid in advance. The purpose of the assessment is to provide an equity base to finance land and facilities to house the Exchange's new trading floors, technology facilities, associated office space and equipment. The Exchange intends to treat funds from the assessment as a contribution to capital that will be segregated from PCX operating funds.

The Exchange expects that the cost of the facilities will greatly exceed the amount to be raised by this assessment. In that regard, the Exchange intends to arrange additional financing for its new facilities. The amount raised by the assessment will serve as an equity base that will aid in the process of obtaining additional financing.

The Exchange's new facilities will consolidate the Exchange's San Francisco administrative and operational facilities into a single

location, will include a larger options trading floor and an appropriately designed equities trading facility that will better serve the trading of equity securities and option contracts, and will provide office space for members and member organizations, including clearing firms. The need for new facilities is based upon the Exchange's current growth rate and its need to provide effective services to its membership. The move will also allow the Exchange to increase the operational efficiency and improve the services it provides to the investing public.

The Exchange recognizes that the current industry trend towards electronic trading will affect the Exchange's future needs for trading floor space, particularly in the trading of equity securities. But with regard to the trading of options contracts, the Exchange believes that it will still need a significantly larger trading floor because the Exchange anticipates that electronic options trading will operate in tandem with the current open outcry floor market. The Exchange also notes that its need to move to new facilities is due in part to the continuing growth of its options business in recent years. The move will also fulfill the Exchange's need to operate in facilities with enhanced emergency power and business recovery systems. The Exchange notes that it previously imposed an assessment on its membership in 1988 and 1984.³

The Exchange is currently studying ways in which it might provide future benefits (such as a rebate of the proposed assessment, if permitted in the future by financial circumstances) to the seat holders who pay some or all of the assessment. The Exchange will also require PCX seat owners and their lessees, if any, to specify in an addendum to their leases whether rent under those leases will be increased to reflect the assessment and whether any

³ In 1988, the Exchange imposed an interim monthly assessment on each of its 551 regular memberships, consisting of two parts: A flat fee of \$600 per month and supplemental activity charge, applied differently for Equities and Options Members, averaging \$600 per month per Member. The assessment was imposed in order for the Exchange to meet its operational, technology, and facilities needs. See Securities Exchange Act Release No. 25617 (April 26, 1988), 53 FR 15761 (May 3, 1988). In 1984, the Exchange imposed a special fee of \$6,000 on the 503 memberships outstanding as of December 15, 1983, for an aggregate assessment of approximately \$3 million. The purpose of the assessment was to raise financing for contemplated facilities improvements to the Los Angeles and San Francisco Equity Floors and the San Francisco Options Floor. See Securities Exchange Act Release No. 20550 (January 11, 1984), 49 FR 2178 (January 18, 1984) [order approving File No. SR-PSE-83-24, which was submitted pursuant to Section 19(b)(3)(A) of the Exchange Act].

potential benefits ultimately returned to seat owners with respect to the assessment will, in turn, be paid or transferred by the seat owner to the lessee.

2. Statutory Basis

The proposal is consistent with Section 6(b)⁴ of the Act, in general, and Section 6(b)(4),⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees or 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 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.⁶

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.

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

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ The Commission notes that, although the Exchange did not formally request comments on the rule filing from members, it did hold a series of meetings to apprise members of the proposed project to finance land and facilities to house the Exchange. Subsequent to those meetings, the Exchange received a petition signed by approximately 165 Options Floor Members opposing the proposed new Exchange facilities and assessment plan. A copy of the petition has been filed with the Commission as Exhibit A to the Rule 19b-4 filing for the proposed rule change.

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 PCX. All submissions should refer to File No. SR-PCX-98-08 and should be submitted by April 1, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39709; File No. SR-PCX-98-10]

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 an Extension of the Permissible Term of FLEX Equity Options

March 3, 1998.

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 February 23, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the PCX. On February 27, 1998, the PCX filed Amendment No. 1 to the proposed rule change.³ 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 its rules to permit a FLEX equity option to have a term of five years in certain circumstances. The text of the proposed rule change is available at the Office of the Secretary, 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 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

The Exchange is proposing to allow FLEX equity options⁴ traded on the Exchange to have a maturity beyond three years and up to five years in certain circumstances. Currently, FLEX equity options, by operation of Rule 8.102(d)(1), are limited to a maturity of three years.

This extension is being proposed in response to requests of broker-dealers to extend the maturity of FLEX equity options to five years. The Exchange notes that the Commission recently approved a proposal of the Chicago Board Options Exchange ("CBOE") to amend its rules in response to such requests.⁵ The Exchange believes that the proposed rule change will allow investors to use longer expiration FLEX equity options to hedge longer-term

the term "Order Book Official" with the term "FLEX Post Official." The proposal will become operative 30 days from the original date of filing because Commission staff finds that the proposed amendment is not substantive.

⁴ A FLEX equity option is an option contract traded on the Exchange whose underlying instrument is an equity security. The terms of FLEX equity options are determined by the parties to the contract.

⁵ See Exchange Act Release No. 39524 (January 8, 1998) 63 FR 3009 (January 20, 1998) (order approving File No. SR-CBOE-97-57).

issuances of structured products linked to returns of an individual stock. The rule, as amended, would permit the longer-term FLEX equity options to be listed when requested by the submitting member if the Flex Post Official⁶ determines that sufficient liquidity exists among Equity FLEX qualified participants.

2. Statutory Basis

By allowing for the extension of the maturity of FLEX equity options to five years in situations where there is demand for a longer-term expiration and where there is sufficient liquidity among Exchange-qualified market makers to support the request, the Exchange believes the proposed rule change will better serve the needs of PCX's customers and the Exchange members who make a market for such customers. The PCX believes the proposal is consistent with and furthers the objectives of Section 6(b)(5) of the Act⁷ in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and 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 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

The Commission finds that the proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(e)(6)⁹ thereunder because it: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) was provided by the Exchange to the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date. A proposed rule

⁶ See Amendment No. 1, *supra* note 3.

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(e)(6).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Deborah Flynn, Division of Market Regulation, Commission, dated February 26, 1998 ("Amendment No. 1"). In Amendment No. 1, the PCX amended the purpose statement of the proposed rule change by replacing