

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40020; File No. SR-PCX-98-23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Number of Option Issues Permitted To Be Traded Under the LMM Book Pilot Program

May 21, 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 May 1, 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 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 remove the current cap on the number of issues traded under the Lead Market Maker ("LMM") Book Pilot Program.

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

Purpose

On October 11, 1997, the Commission approved an Exchange proposal to adopt a one-year pilot program under which a limited number of LMMs would be able to assume operational responsibility for the options public

limit order book ("Book") in certain option issues.³ On September 22, 1997, the Commission approved an Exchange proposal to extend the program for one year, so that it is currently set to expire on October 12, 1998.⁴

Under the pilot program, approved LMMs manage the Book function, take responsibility for trading disputes and errors, set rates for Book execution, and pay the Exchange a fee for systems and services.⁵ Currently, both multiply-listed and non-multiply-listed option issues are eligible to be traded under the pilot program.⁶ Initially, the program was limited by allowing no more than three LMMs to participate in the program and no more than 40 option symbols to be used. But on April 1, 1997, the Commission approved an Exchange proposal to expand the program so that up to nine LMMs may participate and up to 150 option symbols may be used.⁷

The Exchange is now proposing to expand the LMM Book Pilot Program to eliminate the cap on the number of symbols that may be used. The Exchange notes that the program has been in operation for approximately eighteen months and no significant problems have occurred. The program has been viable and effective, and has resulted in significant cost savings to customers in Book execution charges. The Exchange believes that it has adequate systems and operation capacity to expand the scope of the program beyond its current limits.

The Exchange believes that the proposed change will make the Exchange's LMM Program more competitive because it will allow LMM participants to reduce book execution charges in a greater number of issues than currently permitted. The Exchange notes that it is currently seeking to expand the number of LMMs who may

participate in the program which is currently limited to nine.⁸

Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)⁹ of the Act, in general, and furthers the objectives of Section 6(b)(5),¹⁰ in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest. The Exchange does not believe that the proposal will affect the protection of investors or the public interest because the proposal will merely expand the ability of LMMs already participating in the program to reduce the rates charged to customers. The Exchange further believes that by allowing further reductions in rates charged to customers, the proposal encourages competition rather than placing any burdens on it.

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 foregoing rule change shall become operative 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A)¹¹ of the Act and subparagraph (e)(6) of Rule 19b-4 thereunder.¹² Pursuant to Rule 19b-4(e)(6) a proposed rule change may become effective 30 days after filing with the Commission if it does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and by its terms does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. At any time within 60 days of the filing of such

³ See Securities Exchange Act Release No. 37810 (October 11, 1996), 61 FR 54481 (October 18, 1996) (approving File No. SR-PSE-96-09).

⁴ See Securities Exchange Act Release No. 39106 (September 22, 1997), 62 FR 51172 (September 30, 1997).

⁵ See Securities Exchange Act Release No. 37874 (October 28, 1996), 61 FR 56597 (November 1, 1996) (approving SR-PSE-96-38, establishing a staffing charge for LMMs who participate in the pilot program). See also File No. SR-PCX-98-03 (proposal to modify the LMM Book Pilot staffing charge).

⁶ See Securities Exchange Act Release No. 38273 (February 12, 1997), 62 FR 7489 (February 19, 1997) (approving File No. SR-PSE-96-45). See also Securities Exchange Act Release No. 39667 (February 13, 1998), 63 FR 9895 (February 26, 1998) (approving proposal to allow non-multiply-listed option issues to be traded under the program).

⁷ See Securities Exchange Act Release No. 38462 (April 1, 1997), 62 FR 16886 (April 8, 1997).

⁸ See File No. SR-PCX-98-17.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(e)(6).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule change, 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 submission 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. 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, NW., Washington, DC 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-98-23 and should be submitted by June 18, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40007; File No. SR-PHLX-98-12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Trade Options in Narrower Increments

May 19, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 22, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange

Commission ("SEC" or "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 Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (e)(6) of Rule 19b-4 under the Act² which renders the proposal effective upon receipt of this filing by the Commission.³ 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 Phlx, pursuant to Rule 19b-4 of the Act, proposes to permit Phlx index and equity options to be traded in narrower increments. Specifically, Rule 1034 is proposed to be amended to give the Board of Governors the authority to establish the minimum trading increments for index and equity options contracts.

The text of the proposed rule change is available at the Office of the Secretary, Phlx 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 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

Currently, Rule 1034 provides that the minimum fractional change for options trading under \$3.00 is one-sixteenth and for options trading at \$3.00 or higher,

one-eighth. In the case of LEAPS⁴ on the Value Line Composite Index, Rule 1034 provides that the minimum fractional change is one-eighth point in option contracts trading at \$5.00 per index option or higher, and one-sixteenth point in option contracts trading below \$5.00 per index option. In response to recent industry events,⁵ the Exchange has determined that Rule 1034 be changed to permit Phlx index and equity options to be traded in narrower increments. Specifically, Rule 1034 is proposed to be amended to give the Board of Governors the authority to establish the minimum trading increments for index and equity option contracts. Until such time as the Board of Governors determines to use its authority to establish the minimum fractional shares, current standards will apply.

The proposal is intended to achieve uniformity with the rules of other options exchanges.⁶ The amendments should also improve the Exchange's ability to promptly respond to market changes in trading increments. The proposal will allow the Exchange to revise its minimum fractional changes quickly in response to changes adopted in the minimum trading increments in the markets for securities underlying Phlx options or to changes in the minimum trading increments for one of the other options exchanges. When the Board of Governors determines to change the trading increments, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of Rule 1034 within the meaning of subparagraph (3)(A) of subsection 19(b) of the Act and will file a rule change for immediate effectiveness upon filing with the Commission.

The Exchange notes that there has been a movement within the securities

⁴ See Phlx Rule 1101A(b)(iii).

⁵ See Securities Exchange Act Release Nos. 38571 (May 5, 1997), 62 FR 25682 (May 9, 1997) (Order approving SR-Amex-97-14, relating to trading equity securities in sixteenths); 38678 (May 27, 1997), 62 FR 30363 (June 3, 1997) (Order approving SR-NASD-97-27, relating to trading certain equity securities in sixteenths); 38897 (August 1, 1997), 62 FR 42847 (August 8, 1997) (Order approving SR-NYSE-97-21, relating to trading equity securities in sixteenths); and 38779 (June 26, 1997), 62 FR 36328 (July 7, 1997) (Order approving SR-Phylx-97-27, relating to trading equity securities in sixteenths).

⁶ See Securities Exchange Act Release Nos. 39734 (March 9, 1998), 63 FR 12846 (March 16, 1998) (Order approving SR-Amex-97-41, relating to trading options in narrower increments); 39736 (March 9, 1998), 63 FR 12851 (March 16, 1998) (Order approving SR-CBOE-97-49, relating to trading options in narrower increments); and 39735 (March 9, 1998), 63 FR 12852 (March 16, 1998) (Order approving SR-PCX-97-39, relating to trading options in narrower increments).

¹³ 17 CFR 200.30-3(a)(12).

¹ 17 U.S.C. 78s(b)(1).

² CFR 240.19b-4(e)(6).

³ The Exchange has represented that the proposed rule change: (i) Will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b-4(e)(6) under the Act. *Id.*