relationship with an issuer of securities, prior to acting as remarketing agent for the issuer's securities, to disclose in writing to the issuer that there may be conflict of interest and the source and basis of the remuneration the dealer expects to earn as remarketing agent. This will enable the issuer to assess the conflict of interest, and decide if it wishes to proceed or take other action. The Commission believes the proposed rule change further prevents fraudulent and manipulative acts and practices by requiring the issuer's consent to the dealer acting as remarketing agent and to the source and basis of remuneration. The Commission believes this requirement will enhance the likelihood that a financial advisor who wishes to act as remarketing agent for an issue on which it advised the issuer acts in the issuer's best interest and not its own best interest as remarketing agent.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) [13] of the Act, that the proposed rule change, as amended, (SR–MSRB–97–16) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8065 Filed 3–31–99; 8:45 am]

BILLING CODE 8010–01–M

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41212; File No. SR–PCX–99–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc., Relating to Fee Schedule Changes

March 24, 1999.

Pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 11, 1999, 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. On March 4, 1999, the Exchange filed as amendment (''Amendment No. 1'') to the proposed rule change.[3] In Amendment No. 1, the Exchange designated the portion of the proposed rule change dealing with customer transaction charges as constituting a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act,[4] which renders the part of the proposal effective upon receipt of this filing by the Commission.[5] 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 change its Schedule of Fees and Charges for Exchange Services as discussed below. The text of the proposed rule change is available at the Office of the Secretary, 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 Exchange 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 Exchange 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 four changes to its Schedule of Fees an Charges for Exchange Services by reducing its customer transaction charges, increasing its Market Maker transaction charges and fees, reducing its LMM Book transaction charges, and increasing its Member dues.

Customer Charges. Currently, for manual transactions, the Exchange charges its customers $0.15 per contract side for premiums less than one dollar and $0.35 per contract side for premiums one dollar or greater. For block transactions with premiums one dollar or greater, the Exchange charges its customers $0.35 per contract for the first four hundred contracts of a block trade and $0.25 per contract for all contracts over four hundred. The Exchange charges its customers $0.30 per contract side for Pacific Options Exchange Trading System (''POETS'') transactions, with a minimum charge of $0.35 per trade. Also, the Exchange charges a Book execution fee of $0.45 per contract side for all customer Book executions. To simplify rates and reduce costs for customers, the Exchange proposes to reduce transaction charges for customers to $0.12 per contract side, which will apply to all manual transactions (including block transactions) and POETS automated transactions. Further, the Exchange proposes to reduce Book execution fees to $0.20 per contract side for all Book transactions, except accommodation/liquidation transactions,[6] which remain unchanged. The Exchange proposes to make these changes in an effort to remain competitive, attract customer order-flow, and reduce customer costs.

Market Maker Charges. The current transaction charges for Market Makers are $0.095 per contract site for equity options, $0.11 per contract side for index options, and $0.085 per contract side for POETS transactions. Also, the Exchange currently charges a monthly Market Maker fee of $660, which is applied to all Market Makers after a six-month initial waiver person. The Exchange proposes to increase transaction charges for Market Makers to $0.15 per contract side for all manual and POETS transactions. In addition,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, to Michael A. Walinskas, Deputy Associate Director, Division of Market Regulation (''Division''), Commission, dated March 3, 1999. The Commission received a draft of the proposed amendment on February 26, 1999, which the Commission has accepted as a pre-filing pursuant to Rule 19b–4(f)(6).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has represented that the proposed rule change will not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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(f)(6) under the Act. *See* note 3 above. Also, in a telephone conversation on February 26, 1999, between Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, and David Sieradzki, Special Counsel, and Joseph Morra, Attorney, Division, SEC, the Exchange requested that the Commission waive the 30-day waiting period under Rule 19b–4(f)(6) for the portion of the filing relating to customer fees.

[6] An accommodation/liquidation transaction is a book-executed transaction for a premium less than 1⁄16th. Telephone conversation between Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, and Joseph Morra, Attorney, Division, SEC, on March 23, 1999.

the Exchange proposes to increase Market Maker fees to $1,750 per month per Market Maker, and proposes to eliminate the initial six-month waiver period. The Exchange proposes these changes to offset revenues lost from customer rate reductions.

LMM Book Charges. The Exchange charges each Lead Market Maker (''LMM'') $0.10 per Book contract for the first 15,000 contracts, $0.20 for 15,001 to 30,000 Book contracts, $0.30 for 30,001 to 55,000 Book contracts, and $0.20 for all Book contracts over 55,000. These charges are applied to the monthly total of all Book contracts in all options issues collectively traded by an LMM under the program. The Exchange proposes to reduce its per Book contract rates to $0.05 per Book contract for the first 15,000 contracts, $0.10 for 15,001 to 30,000 Book contracts, $0.15 for 30,001 to 55,000 Book contracts, and $0.10 for all Book contracts over 55,000. The Exchange proposes these fee changes to reduce charges consistent with the reduction in Book execution fees for customers. In addition, the fee reduction is intended to attract LMMs to participate in the LMM Book Program.

Member dues. Currently, monthly dues for Exchange Members are $250. The Exchange proposes to increase its monthly Member dues to $750 per month to maintain a revenue base for the operations of the Exchange.

2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities.[9]

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.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

The proposed rule change relating to membership fees, transaction charges for Market Makers, LMM Book charges, Market Maker fees, and member dues became effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[10] and subparagraph (f)(2) of Rule 19b–4 thereunder.[11]

The portion of the proposed rule regarding customer transaction charges have been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(ii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13] Consequently, because the Exchange represents that the foregoing proposed rule change with respect to customer transaction changes: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and because the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. The Commission finds good cause to permit the proposed rule change relating to customer fees to become operative prior to thirty days from the date of filing[14] because the Commission believes that those portions reducing the fees may increase competition between the options exchanges.

IV. Solicitation of Comments

Interested personal are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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, DC 20549–0609. 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 PCX. All submissions should refer to File No. SR–PCX–99–03, and should be submitted by April 22, 1999.

[10] 15 U.S.C. 78f(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(6).

[14] The Exchange requested that the Commission waive the 30-day operative period under Rule 19b–4(f)(6) regarding the provision relating to customer fees. *See* footnote 5.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8062 Filed 3–31–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41210; File No. SR–Phlx–96–14]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 3 and 4 to Proposed Rule Change Relating to the Establishment of a Daily Pre-Opening Session for the Matching of Orders at the Volume Weighted Average Price

March 24, 1999.

I. Introduction

On April 29, 1996, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would establish a daily pre-opening order matching session (''Session'') for the execution of large-sized stock orders at the volume weighted average price (''VWAP™'').[3] The Session would be conducted through the VWAP Trading System (''VTS™''), which would be operated as a facility of the Exchange. The VTS is a system module of the Universal Trading System (''UTS™'')[4] that was developed by Universal

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] VWAP™ is a registered trademark of the Dover Group, Inc.

[4] The VTS™ and UTS™ trademarks are the property of Universal Trading Technologies Corporation.