

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41481; File No. SR-PCX-99-14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to 50-Up During High Volume, and/or High Volatility Situations

June 4, 1999.

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 20, 1999,³ the Pacific Exchange, Inc. ("PCX" 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 PCX. 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 proposes to increase the maximum permissible number of option contracts for orders that are executable through PCX's automatic execution system ("Auto-Ex") to fifty contracts. Proposed new language is italicized.

§ 4889 Unusual Market Circumstances

Rule 6.28(a)-(b)(8)—No change.

(9) The Exchange may increase the permissible size of orders that may be automatically executed over the Auto-Ex system to up to 50 contracts, to be effected on a case-by-case basis in a particular option issue, or for all option issues, when two Floor Officials and one Floor Governor deem such an increase to be appropriate. Pursuant to this Rule, the ability to execute orders of up to 50 contracts will only occur during high volume or high volatility emergency situations. At all other times, the order size for Auto-Ex will remain to be the number of contracts permitted under Rule 6.87.

(c) and (d)—No change.

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

Purpose

In 1990, the Exchange implemented its Auto-Ex system through which public customer market and marketable limit orders may be executed automatically at the best bid or offer displayed at the time the order is entered into the Pacific Options Exchange Trading System ("POETS").⁴ Initially, Auto-Ex was limited to implementation in all equity options classes, for the number or contracts approved by the Options Floor Trading Committee ("OFTC"), at two trading posts and any option that became multiply traded.⁵ In 1993, the Commission approved a proposal by the PCX to designate option orders of ten contracts or less in all options series, including Long-term Equity Anticipation Securities ("LEAPS"), to be eligible for automatic execution through Auto-Ex.⁶ In 1994, the Commission approved a proposal by the PCX to designate options orders of twenty contracts or less to be eligible for execution through Auto-Ex.⁷ Currently, because Auto-Ex is only permitted to automatically execute option orders of twenty contracts or less, market and marketable limit orders of more than twenty contracts are routed by POETS to

members on the trading floor for manual representation.

The PCX is now proposing to increase the maximum permissible number of option contracts for order that may be executed through the Auto-Ex system to fifty contracts. The PCX proposes that this increase in permissible order size to fifty contracts for Auto-Ex be done on a case-by-case basis for an individual option issue, or for all option issues when two Floor Officials and one Floor Governor deem such an increase appropriate. The PCX currently anticipates that the ability to execute orders of up to fifty contracts through Auto-Ex will only occur during high volume, and/or high volatility emergency situations. At all other times, the order size for Auto-Ex will remain at twenty contracts, unless the Commission approves an Exchange proposal to increase that number to greater than twenty contracts.⁸

The PCX believes that Auto-Ex has been extremely successful in enhancing execution and operational efficiencies during emergency situations and during other non-emergency situations for certain option issues. Automatic executions of orders for up to fifty contracts during such high volume situations will help alleviate a backlog of orders in the systems that may occur and allow for the quick, efficient execution of public customer orders. The Exchange represents that the existing system has sufficient capacity to implement the increase in order size.

The Exchange's proposed rule change specifically states that the Exchange may increase the permissible size of orders that may be automatically executed over the Auto-Ex system to up to fifty contracts, to be effected on a case-by-case basis in a particular option issue, or for all option issues, when two Floor Officials and one Floor Governor deem such an increase to be appropriate. It further states that, pursuant to this rule, the ability to execute orders of up to fifty contracts will only occur during high volume or high volatility emergency situations, and at all other times, the order size for Auto-Ex will remain the number of contracts permitted under Rule 6.87.

Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)⁹ of the Act in general and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On May 28, 1999 the PCX filed Amendment No. 1. See letter to John Roeser, Attorney, Division of Market Regulation, Commission, from Robert P. Pacelio, Staff Attorney, PCX, dated May 27, 1999. In amendment No. 1, the Exchange made a technical modification to the proposed rule filing.

⁴ The Commission approved the POETS and its Auto-Ex feature as a pilot program in January 1990. See Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (January 24, 1990) (order approving File No. SR-PSE-89-26). On July 30, 1993, the Commission approved the program on a permanent basis. See Securities Exchange Act Release No. 32703 (July 30, 1993), 58 FR 42117 (August 6, 1993) ("Release No. 34-32703").

⁵ See Securities Exchange Act Release No. 28264 (July 26, 1990), 55 FR 31272 (August 1, 1990) at note 2.

⁶ See Release No. 34-32703.

⁷ See Securities Exchange Act Release No. 34946 (November 6, 1994), 59 FR 59265 (November 16, 1994).

⁸ On February 10, 1999, the PCX filed a proposal (SR-PCX-99-04) with the Commission to increase the number of option orders that may be executed automatically to fifty contracts without regard to whether a high volume or high volatility emergency situation exists.

⁹ 15 U.S.C. 78f(b).

further the objectives of section 6(b)(5)¹⁰ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to improve impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

PCX does not believe that the proposed rule change will impose any burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change:

- (i) Does not significantly affect the protection of investors or the public interest;
- (ii) Does not impose any significant burden on competition; and
- (iii) Does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest,¹¹ it has become effective pursuant to section 19(b)(3)(A)¹² of the Act and Rule 19b-4(f)(6).¹³

The Commission believes that increasing to fifty the number of option contracts executable through the Exchange's Auto-Ex order execution system should enable the Exchange to more effectively and efficiently manage increased order flow in actively traded option classes consistent with its obligations under the Act. The Commission finds good cause to allow the proposed rule change to become operational on June 4, 1999. This accelerated operative date should facilitate the enhancement of execution

and operational efficiencies through Auto-Ex during high volume or high volatility emergency situations. The Commission has previously approved a substantially similar proposal by the American Stock Exchange LLC.¹⁴

At any time within 60 days of the filing of the 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 proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., 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 provision 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-99-14 and should be submitted by July 2, 1999.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-14872 Filed 6-10-99; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 29088]

Airport Privatization Pilot Program; Public Meeting

AGENCY: Federal Aviation Administration (FAA) DOT.

¹⁴ See Securities Exchange Act Release No. 41098 (February 24, 1999), 64 FR 10511 (March 4, 1999).

¹⁵ 17 CFR 200.30-3(a)(12).

ACTION: Notice of extension of comment period for final application of Stewart International Airport, Newburgh, New York; Notice of Public Meeting.

SUMMARY: On April 8, 1999, the Federal Aviation Administration (FAA) published a notice in the **Federal Register** (64 FR 17208) seeking information and comments from interested parties on the final application by the State of New York for participation of Stewart International Airport (SWF) in the Airport Privatization, Pilot Program. The deadline for submitting comments was June 7, 1999. The comment period has now been extended until June 28, 1999 to allow the public more time to examine and comment on the final application. A public meeting will be held on June 12, 1999.

DATES: Comments must be received by June 28, 1999. The public meeting will be held on Saturday, June 12, 1999 from 11am to 3pm.

ADDRESSES: The public meeting will be held in the auditorium of the Little Britain Elementary School, 1160 Little Britain Road, New Windsor, New York, (914) 496-2301. The SWF final application is available for public review in the Federal Aviation Administration Office of Chief Counsel, 800 Independence Avenue, SW—Room 915G., Washington, DC 20591. The New York State Department of Transportation (NYSDOT), the airport sponsor, has also made as copy of the application available at the following locations:

Town Clerk's Office, Town of New Windsor,
Town Hall 555 Union Avenue, New Windsor, NY 12553.

Town Clerk's Office, Town of Newburgh,
Town Hall, 20-26 Union Avenue, Newburgh, NY 12550.

Newburgh Free Library, 124 Grand Street,
City of Newburgh, Newburgh, NY 12550.

Orange County Planning Department, 124 Main Street, Goshen, NY 10924.

Airport Director's Office, Airport Administration Building, 1035 First Street, Stewart International Airport, New Windsor, NY 12553.

Comments on the SWF final application must be delivered or mailed, in quadruplicate, to the Federal Aviation Administration Office of Chief Counsel (AGC-200), 800 Independence Avenue, SW., Washington, DC 20591, Attention: Docket No. 29088. All comments must be marked "Docket No. 29088". Commenters wishing the FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 29088." The

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ The Commission has waived the requirement that the Exchange provide written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).