

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 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, D.C. 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-99-49 and should be submitted by December 29, 1999.

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

Jonathan G. Katz,
Secretary.

[FR Doc. 99-31780 Filed 12-7-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42188; File No. SR-PCX-99-17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Exchange, Inc. Relating to a Ticket-to-Follow Amendment to the PCX Rules on Telephones on the Options Floor

December 1, 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 June 1, 1999, 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. On November 12, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.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 Exchange is proposing to modify its rules on options trading to permit Floor Brokers to immediately represent intra-floor telephonic orders in the trading crowd, with a written order ticket immediately to follow.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Michael Pierson, Director, Regulatory Policy, PCX, to John Roeser, Attorney, Division of Market Regulation, Commission, dated November 10, 1999 ("Amendment No. 1"). The text of Amendment No. 1 is incorporated into this notice.

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 modify its rules to reduce the amount of time required before intra-floor telephonic orders can be represented in the trading crowd. Currently, Options Floor Brokers are not permitted to represent orders they receive over the telephone unless and until they have prepared, from outside the trading crowd, a written, time-stamped order ticket.⁴

The Exchange is now proposing to adopt new PCX Rule 6.2(h)(4)(C), which will provide that a Floor Broker in a trading crowd who receives an order from a Member of Member Firm representative located on the Trading Floor may represent that order immediately in the trading crowd, provided that a written, time-stamped order ticket for that order must be taken immediately to the Floor Broker in the trading crowd.⁵ The Exchange is also proposing to remove the following text from proposed PCX Rule 6.2(h)(4)(B): "Floor Brokers who receive telephonic orders while in the trading crowd must step outside of the trading crowd, write up an order ticket and time-stamp it before representing the order in the crowd." In addition, the Exchange is proposing to modify PCX Rule 6.67 ("Orders Required to Be in Written Form") by adding new subsection (d), which will provide that a Floor Broker may represent a telephonic order, with the ticket to follow, as provided in PCX Rule 6.2(h)(4)(C). The Exchange is also proposing to modify PCX Rule 6.85 ("Market Maker Orders Executed by Floor Brokers") by providing that PCX Rule 6.2(h)(4)(C) is an exception to the general rule that when a Floor Broker receives a verbal order from a Market Maker, or when a Floor Broker is

⁴ See, e.g., proposed PCX Rule 6.2(h)(4)(B), published for public comment in Filing No. SR-PCX-98-30, Exchange Act Release No. 41018 (February 3, 1999), 64 FR 7681 (February 16, 1999) ("Floor Brokers who receive telephonic orders while in the trading crowd must step outside of the crowd, write up an order ticket and time stamp it before representing the order in the crowd"); See also PCX rule 6.85, Com. .03 ("when a Floor Broker receives a verbal order from a Market Maker, or when a Floor Broker is requested by a Market Maker to alter an order in his possession in any way, the Floor Broker shall immediately prepare an order ticket from outside the trading crowd and time stamp it").

⁵ In Amendment No. 1, the Exchange modified the proposed text of PCX Rule 6.2(h)(4)(C) to provide that an order ticket for the order must be prepared and time stamped in the member firm booth before the order is transmitted telephonically to the Floor Broker in the trading crowd. See Amendment No. 1, *supra* note 3.

⁷ 17 U.S.C. 200.30-3(a)(12).

requested by a Market Maker to alter an order in his possession in any way, the Floor Broker shall immediately prepare an order ticket from outside the trading crowd and time-stamp it. Accordingly, Floor Brokers who receive intra-floor telephonic orders from Market Makers will be permitted to represent those orders immediately, with the ticket immediately to follow.⁶

The Exchange notes that pursuant to Options Floor Procedure Advice ("OFPA") F-5, hand signals may be used to increase or decrease the size of an order, to change the order's limit, to cancel an order or to activate a market order, as long as the cancellation or change to the order is "relayed to the Floor Broker in a time-stamped, written form immediately thereafter." Although OFPA F-5 is rarely used on the PCX, the Exchange is proposing, as a matter of consistency, to eliminate the following text from OFPA F-5: "Any changes to an order must be documented in writing outside of the crowd and the ticket time-stamped, before the revised order may be represented."

The Exchange believes that the rule change is necessary to assure that, as more and more option orders are transmitted and represented electronically on the PCX, manual orders represented by Floor Brokers are not placed at a competitive disadvantage. In that regard, the Exchange notes that pursuant to PCX Rule 6.88 (Exchange-sponsored Hand-Held Terminals for Floor Brokers)⁷ and 6.89 (Proprietary Brokerage Order Routing Terminals),⁸ PCX member firms currently may send orders electronically from off the Trading Floor directly to a Floor Broker's hand-held terminal located in the trading crowd on the Options Floor.

The Exchange believes that implementation of the proposed rule change will not diminish the ability of the Exchange to conduct adequate surveillance for rule violations. The Exchange believes that the continuing requirement for floor members to prepare a written, time-stamped order ticket, which will document the time of order entry, will satisfy the Exchange's audit trail requirements in that regard. Further, the execution time of the order will otherwise be documented by the contra party or parties to the trade⁹ as

well as by the price Report Terminal Operator (a PCX employee).

2. Basis

The Exchange believes that this proposal is consistent with Section 6(b)¹⁰ of the Act, in general, and furthers the objectives of Section 6(b)(5),¹¹ in that it is designed to promote just and equitable principles of trade, to facilitate transactions in securities, 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

PCX 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

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

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(A) by order approve such proposed rule change, or

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

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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-99-17 and should be submitted by December 29, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jonathan G. Katz,
Secretary.

[FR Doc. 99-31782 Filed 12-7-99; 8:45 am]

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed priorities; request for public comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the Commission has preliminarily identified certain priorities as the focus of its policy development work, including possible amendments to guidelines, policy statements and commentary, for the amendment cycle ending May 1, 2000. The Commission has only recently been reconstituted and, due to the constraints of an abbreviated amendment cycle, the Commission proposes to place on its agenda only those items the Commission hopes it may be able to conclude by its statutory deadline of May 1.

DATES: Public comment should be received on or before January 7, 2000.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2-500 South, Washington, DC 20002-8002, Attention: Public Information-Priorities Comment.

⁶ Under Proposed PCX Rule 6.2(h)(4), Floor Brokers are not permitted to communicate directly with persons located off the Trading Floor. See File No. SR-PCX-98-30.

⁷ See Securities Exchange Act Release No. 39970 (May 7, 1998), 63 FR 26662 (May 13, 1998).

⁸ See Securities Exchange Act Release No. 40577 (October 20, 1998), 63 FR 57721 (October 28, 1998).

⁹ See PCX Rule 6.69 and OFPA G-12.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 17 CFR 200.30-3(a)(12).