

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44231; File No. SR-PCX-2001-20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to One Point Strike Price Intervals for Options on Exchange-Traded Fund Shares and the Hours of Trading for Options on the Nasdaq-100 Index Tracking Stock

April 27, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 5, 2001, 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 Exchange. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act.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 proposes to amend PCX Rule 6.4 by adding Commentary .04 to create one point strike price intervals for options on Exchange-Traded Fund Shares. The PCX also proposes to amend PCX Rule 4.2 by adding Commentary .02 to establish the hours of trading for options on the Nasdaq-100 Index Tracking Stock, which is a particular type of Exchange-Traded Fund Shares,⁴ from 6:30 a.m. to 1:15

p.m. Pacific Time ("PT"), except the last trading day of each calendar month, when trading in options on Nasdaq-100 Index Tracking Stock will end at 1:05 p.m. PT. Below is the text of the proposed rule change. Proposed new language is italicized, and proposed deletions are in brackets.

* * * * *

¶ 3703 Trading Sessions

Rule 4.2—No change.

Commentary:

.01—No change.

.02 *The hours for trading options on Nasdaq-100 Index Tracking Stock will commence at 6:30 a.m. and end at 1:15 p.m. each business day, except the last trading day of each calendar month, when trading in options on Nasdaq-100 Index Tracking Stock will end at 1:05 p.m.*

* * * * *

¶ 4745 Series of Options Open for Trading

Rule 6.4(a)–(e)—No change.

Commentary:

.01–.03—No change.

.04 *The interval of strike prices of series of options on Exchange-Traded Fund Shares will be \$1 or greater where the strike price is \$200 or less.*

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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 parts of such statements.

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

1. Purpose

The purpose of the proposed rule change is to provide one point strike price intervals for options on Exchange-

merchantability or fitness for a particular purpose or use with respect to the Nasdaq-100 Index® or any data included therein. Without limiting any of the foregoing, in no event shall the Corporations have any liability for any lost profits or special, incidental, punitive, indirect, or consequential damages, even if notified of the possibility of such damages.

Traded Fund Shares and to establish the hours of trading in options on the Nasdaq-100 Index Tracking Stock from 6:30 a.m. to 1:15 p.m. PT, except the last trading day of each calendar month, when trading in options on the Nasdaq-100 Index Tracking Stock will end at 1:05 p.m. PT.

The PCX received approval from the Commission to trade options on Exchange-Traded Fund Shares on February 28, 2001.⁵ The PCX proposes to amend Rule 6.4 by adding Commentary .04 regarding strike price intervals for options on Exchange-Traded Fund Shares to bracket the Fund Shares at one point intervals up to a share price of \$200. This proposed amendment is consistent with the strike price interval established for options on Exchange-Traded Fund Shares on the American Stock Exchange, LLC ("Amex")⁶ and by the Philadelphia Stock Exchange, Inc. ("Phlx").⁷

The PCX also proposes to amend its hours of business to trade options on the Nasdaq-100 Index Tracking Stock in PCX Rule 4.2 from 6:30 a.m. to 1:15 p.m. PT, except the last trading day of a calendar month, when trading in options on the Nasdaq-100 Index Tracking Stock will end at 1:05 p.m. PT. These hours are consistent with the trading of options on Nasdaq-100 Index Tracking Stock on the Amex and the Phlx.

The PCX believes that these amendments will increase investor protection by allowing options on Exchange-Traded Fund Shares and, in particular, options on the Nasdaq-100 Index Tracking Stock to trade at the same strike price intervals and trading hours on the PCX as on other exchanges. The PCX believes that these amendments will enable the PCX to compete with other exchanges in these products.

2. Statutory Basis

The Exchange believes that the proposed rule change will assist in allowing the Exchange to offer investors another choice of venue to conduct trading in these products. Thus, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers

⁵ See Securities Exchange Act Release No. 44025 (February 28, 2001), 66 FR 13986 (March 8, 2001) (Order approving SR-PCX-01-12).

⁶ See Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998) (Order approving SR-Amex-96-44).

⁷ See Securities Exchange Act Release No. 44055 (March 8, 2001), 66 FR 15310 (March 16, 2001) (Order approving SR-Phlx-01-32).

⁸ 15 U.S.C. 78f(b).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ The Nasdaq-100®, and Nasdaq-100 Index®, and Nasdaq® are trade or service marks of The Nasdaq Stock Market, Inc. (with its affiliates, the "Corporations") and are licensed for use by the Exchange. Options on Nasdaq-100 Index Tracking Stock (the "Products") have not been passed on by the Corporations as to their legality or suitability. The Products are not issued, endorsed, sold, or promoted by the Corporations. The Corporations make no warranties and bear no liability with respect to the Products. The Corporations do not guarantee the accuracy and/or uninterrupted calculation of the Nasdaq-100 Index® or any data included therein. The Corporations make no warranty, expressed or implied, as to results to be obtained by Licensee, owners of the Products, or any other person or entity from the use of the Nasdaq-100 Index® or any data included therein. The Corporations make no express or implied warranties, and expressly disclaim all warranties of

the objectives of Section 6(b)(5)⁹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of free and open market and a national market system, and, in general, 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 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 proposed rule change has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹ 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) by its terms, does not become operative for 30 days after the date of the filing, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6).¹³ The Exchange also provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change. At any time within 60 days of the filing of such 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 submissions 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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. 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-2001-20 and should be submitted by May 24, 2001.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-11088 Filed 5-2-01; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Shelby County, Tennessee and Desoto County, Mississippi

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for Section 9 of proposed Interstate 69 in Desoto County, MS and Shelby County, TN beginning near Hernando, MS and extending to Millington, TN.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Doctor, Field Operations Team Leader, Federal Highway Administration, 640 Grassmere Park, Suite 112, Nashville, Tennessee 37211, Telephone: (615) 781-5788

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Tennessee Department of Transportation and Mississippi Department of Transportation will prepare an Environmental Impact

Statement (EIS) on a proposal to provide a divided freeway facility from Interstate 55 (I-55) and State Route (S.R.) 304 near Hernando in Desoto County, Mississippi to US 51/S.R. 385 near Millington in Shelby County, Tennessee. Two general corridors, A and B, are being studied. Corridor A will pass through the city of Memphis and will generally follow the existing interstate system from I-55/S.R. 304 in Hernando, MS to US 51/S.R. 385 near Millington. Corridor B will be east of Memphis and will begin at I-55/S.R. 304 in Hernando, MS and end at US 51/S.R. 385 near Millington. The proposed project will be 64 to 96 kilometers (40 to 60 miles) in length depending on which alternative alignment is selected.

This proposed improvement is a section of independent utility of the Congressionally-designated High Priority Corridor 18, or future Interstate 69 which proposes to construct Interstate 69 from Port Huron, Michigan to the lower Rio Grande Valley in Texas. The overall purpose of this corridor is to improve international and interstate trade and to facilitate economic development.

Alternatives to be considered are: (1) Taking no action (no-build); (2) three build alternatives in Corridor A and three build alternatives in Corridor B. All alternatives will have a full control of access freeway design and will be on both existing and new location and (3) other alternatives that may arise from public and agency input. Incorporated into and studied with the build alternatives will be design variations of grade and alignment.

Initial coordination letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A public hearing will be held upon completion of the Draft EIS and public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting and public involvement meetings are planned for late Spring 2001.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 200.30-3(a)(12).