

## **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its customs and practices for calculating continuing annual listing fees for Canadian companies.

## **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**

It has been the custom and practice of the Exchange to calculate the continuing annual fee for Canadian companies listed before September 8, 1989 on the basis of total worldwide shares, with a 50% discount for companies with more than half of their operations outside the United States. The continuing annual fee for Canadian companies listed after September 8, 1989 and all other non-U.S. companies has been calculated based on shares issued in the U.S. The proposed change will calculate continuing annual fees for all Canadian companies based on shares issued in the U.S., thereby conforming the continuing annual fee for Canadian companies listed before September 8, 1989, to the standard applied to all other non-U.S. companies.

#### **2. Statutory Basis**

The Exchange believes the basis under the Act for the proposed rule change is the requirement under Section 6(b)(4)<sup>3</sup> that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

### *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*

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**

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 the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.<sup>4</sup>

## **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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-00-01 and should be submitted by February 15, 2000.

<sup>4</sup> The Exchange requested accelerated approval in its filing with the Commission. However, the Exchange retracted its request in a telephone conversation between Amy Bilbija, Counsel, NYSE, and Terri Evans, Special Counsel, and Heather Traeger, Attorney, Division of Market Regulation, SEC, on January 11, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-42349; File No. SR-PCX-99-37]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Authorizing the PCX ITS Coordinator to Accept Inbound Commitments on Behalf of Other PCX Specialists**

January 19, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 5, 1999, 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. PCX submitted an amendment on November 2, 1999 ("Amendment No. 1"),<sup>3</sup> and an amendment on December 7, 1999 ("Amendment No. 2").<sup>4</sup> 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 adopt a new rule to allow the ITS Coordinator<sup>5</sup> in a given equity issue to accept ITS

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 5 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Letter from Michael Pierson, Director, Regulatory Policy, PCX, to Marla Chidsey, Law Clerk, Division of Market Regulation, Commission, dated November 1, 1999. Amendment No. 1 clarifies whether the ITS coordinator must still confirm with other PCX specialists, executions made on behalf of those other PCX specialists, before executions occur.

<sup>4</sup> See Letter from Michael Pierson, Director, Regulatory Policy, PCX, to Marla Chidsey, Law Clerk, Division of Market Regulation, Commission, dated December 6, 1999. Amendment No. 2 adds Rule 5.20(a)(xi) defining the term "PCX Coordinating Specialist" as the specialist responsible for coordinating the acceptance of inbound ITS commitments.

<sup>5</sup> The Commission would like to clarify that the term "ITS Coordinator" is used interchangeably with the term "PCX Coordinating Specialist" as defined in new Rule 5.20(a)(xi).

<sup>3</sup> 15 U.S.C. 78f(b)(4).

commitments on behalf of other specialists in that issue.

## 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

#### 1. Purpose

At the PCX, there are generally two registered specialists per equity issue traded on the Exchange.<sup>6</sup> However, there is only one specialist per issue who acts as the ITS Coordinator. The ITS Coordinator is generally responsible for coordinating acceptance of incoming ITS commitments among the specialists in a particular stock. The PCX expects that there will continue to be only one ITS Coordinator per stock after the Exchange expands the number of specialists per issue.

Currently, any PCX specialist may send an outbound ITS commitment to another market center without that ITS Coordinator's assistance. A PCX specialist who is not an ITS Coordinator may also receive inbound ITS commitments without the involvement of the ITS Coordinator, as long as the ITS Coordinator is not designated to participate in the trade as a result of the inbound commitment.<sup>7</sup> However, if an inbound commitment involves more than one PCX specialist as the contra side, then the ITS Coordinator is required to coordinate the execution of the commitment among the PCX participants verbally.

The current PCX rules do not expressly authorize the ITS Coordinator to accept ITS commitments on behalf of other specialists. The ITS Coordinator needs to obtain the verbal consent of the other specialist before accepting an

inbound commitment on behalf of that other specialist. The PCX is now proposing to provide the ITS Coordinator with the express authority to accept ITS commitments on behalf of other specialists. The Exchange believes that this rule change is necessary in order to assure that there will be no delays in the acceptance of inbound ITS commitments, where there is more than one specialist quoting at the price of the inbound commitment.<sup>8</sup>

For example, assume Specialist A and Specialist B (PCX specialists) are both bidding \$20 (the national best bid) for 500 shares of XYZ stock. If the PCX receives an inbound ITS commitment to sell 1,000 shares of stock, and if Specialist A is the ITS Coordinator, then Specialist A will confirm with Specialist B that 500 shares of XYZ may be accepted by Specialist A on Specialist B's behalf. The proposed rule change would allow Specialist A to accept the 500 shares on Specialist B's behalf, on the ground that Specialist B's bid for 500 shares is still outstanding at the time that Specialist A receives the inbound commitment for 1,000 shares. Whenever an inbound ITS commitment is received on the PCX, the specialists whose quotes prompted the inbound commitment will be notified by a "shadow" message that the inbound commitment has been received on the PCX.<sup>9</sup>

Specifically, the PCX is proposing to adopt new Rule 5.20, Commentary .04, which will provide that in the case of the assignment of an ITS stock to more than one PCX Registered Specialist, the PCX Coordinating Specialist or PCX Registered Specialist at whose ITS station an ITS commitment to trade is received is authorized to accept such commitment at the PCX bid or offer price, if still available (or at a better price if available), and up to the size of the PCX bid or offer without the need to communicate with other PCX members.

#### 2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>11</sup> in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing,

settling, processing information with respect to, and facilitating transactions in securities, to promote just and equitable principles of trade and 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 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 days of the date 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 proposed rule 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-99-37 and should be submitted by February 15, 2000.

<sup>6</sup> The PCX expects that there will be more than one specialist per stock when its competing specialist program is implemented. See Exchange Act Release No. 41327 (April 22, 1999), 64 FR 23370 (April 30, 1999).

<sup>7</sup> The ITS Coordinator need not coordinate the commitment if he or she is not quoting at the price of the inbound commitment and is not representing an order at that price.

<sup>8</sup> Priority and parity rules will not be affected by the proposed rule change. Telephone conversation between Michael Pierson, Director, Regulatory Policy, PCX, and Christine Richardson, Attorney, and Marla Chidsey, Attorney, Division of Market Regulation, Commission (January 18, 2000).

<sup>9</sup> See also Amendment No. 1.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Margaret H. McFarland,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42346; File No. SR-Phlx-99-57]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Permanent Approval of the Elimination of Position and Exercise Limits for FLEX Equity Options

January 18, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 4, 2000, 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 and II below, which Items have been prepared by the Phlx. 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

Phlx requests permanent approval for the elimination of position and exercise limits<sup>3</sup> on Flexible Exchange Options on equity securities ("FLEX equity options").

#### 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 III 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

The Phlx requests permanent approval of the pilot program eliminating position and exercise limits on FLEX equity options. FLEX equity options at the Phlx have been trading since January 1998.<sup>4</sup> The Commission approved the elimination of position and exercise limits on FLEX equity options, on a two-year pilot basis, concurrently with the approval of the trading of FLEX equity options.<sup>5</sup>

In addition to eliminating position and exercise limits, the pilot program required that a member or member organization (other than a Specialist or Registered Options Trader) report to the Exchange information for each account that maintains a position on the same side of the market in excess of the position limit established pursuant to the applicable exchange rule for Non-FLEX Equity options of the same class. The report included information regarding the FLEX Equity option position, positions in any related instrument, the purpose or strategy for the position, and the collateral used by the account.<sup>6</sup>

Furthermore, the Commission, in its order approving the pilot program, required the Exchange to submit a report containing a description of: (i) the types of strategies used by FLEX Equity options market participants and whether FLEX Equity options are being used in lieu of existing standardized equity options; (ii) the type of market participants using FLEX Equity option both before and during the pilot program, including how the utilization of FLEX Equity options has changed; (iii) the average size of FLEX Equity

option contracts both before and during the pilot program, the size of the largest FLEX Equity option contract on any given day both before and during the pilot program, and the size of the largest FLEX Equity option held by any single customer/member both before and during the pilot program; and (iv) any impact on the prices of underlying stocks during the establishment or unwinding of FLEX positions that are greater than three times the standard position limit. Phlx filed its report, which will be discussed below, on July 15, 1999.

##### 2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)<sup>7</sup> that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

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

The proposed rule change will impose no burden on competition.

#### 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.

### III. 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, 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 at the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Position limits impose a ceiling on the number of option contracts in each class on the same side of the market (i.e., aggregating long calls and short puts or long puts and short calls) that can be held or written by an investor or group of investors acting in concert. Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

<sup>4</sup> Securities Exchange Act Release No. 39549 (January 14, 1998), 63 FR 3601 (January 23, 1998) (approving SR-Phlx-96-38).

<sup>5</sup> The Commission notes that it recently approved identical proposed rule changes from the American Stock Exchange, Chicago Board Options Exchange and the Pacific Exchange. See Securities Exchange Act Release No. 42223 (December 10, 1999), 64 FR 71158 (December 30, 1999) (approving SR-Amex-99-40, SR-PCX-99-41, and SR-CBOE-99-59).

<sup>6</sup> The Exchange also required that an updated report be filed when a change in the options position occurred or when a significant change in the hedge of that position occurred.

<sup>7</sup> 15 U.S.C. 78f(b)(5).