

increased competition between other market centers trading the product. Specifically, the Commission believes that by increasing the availability of the HOLDRs as an investment tool, the NYSE's proposal should help provide investors with increased flexibility in satisfying their investment needs, by allowing them to purchase and sell a single security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day.

As noted above, the Commission has approved the listing and trading of HOLDRs at other securities exchanges, under rules that are substantially similar to the NYSE rules.¹⁶ The Commission published those rules in the **Federal Register** for the full notice and comment period. No comments were received on the proposed rules, and the Commission found them consistent with the Act.¹⁷ The HOLDRs at issue are currently trading on other securities exchanges pursuant to UTP. The Commission does not believe that trading of this product raises novel regulatory issues that were not addressed in the previous filings. Accordingly, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-NYSE-2002-15) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45737; File No. SR-PCX-00-45]

Self Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to the Proposed Rule Change Relating to the Expansion of the Equity Hedge Exemption From Position and Exercise Limits

April 11, 2002.

I. Introduction

On December 11, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with 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 to expand the current equity hedge exemption to eliminate position and exercise limits for certain qualified hedge strategies. The proposed rule change was published for comment in the **Federal Register** on August 17, 2001.³ The Commission received no comments on the proposal. On April 9, 2002, the PCX submitted Amendment No. 1 to the proposal.⁴

II. Description of the Proposal

The Exchange is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position and to establish a position and exercise limit of five times the standard limit for those strategies that include an OTC option contract. Accordingly, the PCX proposes to amend Commentary .07 of Exchange Rule 6.8(a) to expand the definition of a "qualified" hedged position. The proposed qualified hedged strategies are as follows:

1. Where each option contract is "hedged" by the number of shares underlying the option contract or securities convertible into the underlying security or, in the case of an adjusted option, the same number of shares represented by the adjusted contract: (a) Long call and short stock;

(b) short call and long stock; (c) long put and long stock; or (d) short put and short stock.

2. Reverse Conversions—A long call position accompanied by a short put position, where the long call expires with the short put and the strike price of the long call and short put is the same, and where each long call and short put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.⁵

3. Conversions—A short call position accompanied by a long put position, where the short call expires with the long put and the strike price of the short call and long put is the same, and where each short call and long put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.⁶

4. Collars—A short call position accompanied by a long put position, where the short call expires at the same time as the long put and the strike price of the short call equals or exceeds the strike price of the long put position and where each short call and long put position, is hedged with 100 shares of the underlying security (or other adjusted number of shares).⁷ Neither side of the short call/long put position can be in-the-money at the time the position is established.

5. Box Spreads—A long call position accompanied by a short put position, where both the long call and short put have the same strike price, and a short call position accompanied by a long put position, where the short call and long put have the same strike price as each other, but a different strike price than the long call/short put position.

6. Back-to-Back Options—A listed option position hedged on a one-for-one basis with an over-the-counter ("OTC") option position on the same underlying security.⁸ The strike price of the listed

⁵ For these strategies one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account. Hedge transactions and positions established pursuant to these strategies and using an OTC option contract as part of the hedge are subject to a position limit equal to five times the standards limit established under Commentary .05 to PCX Rule 6.8(a). For purposes of this rule filing, an OTC option contract is defined as an option that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

⁶ *Id.*

⁷ *Id.*

⁸ Hedge transactions and positions established pursuant to this strategy are subject to a position limit equal to five times the standards limit established under Commentary .05 to PCX Rule 6.8(a).

¹⁶ See note 7, *supra*.

¹⁷ *Id.*

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44680 (August 10, 2001), 66 FR 43283.

⁴ See Letter from Cindy Sink, Senior Attorney, Regulatory Policy, PCX, to John Riedel, Attorney, Division of Market Regulation, Commission, dated April 9, 2002 ("Amendment No. 1"). In Amendment No. 1, the PCX established a position and exercise limit equal to no greater than five times the standard limit for those hedge strategies that include an OTC option component.

option position and corresponding OTC option position must be within one strike price interval of each other and no more than one expiration month apart.

For reverse conversion, conversion and collar strategies, one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

Within the list of proposed hedge strategies eligible for the equity hedge exemption, the Exchange proposes that the option component of a reversal, a conversion or a collar position can be treated as one contract rather than as two (2) contracts. All three strategies serve to hedge a related stock portfolio. Because these strategies require the contemporaneous⁹ purchase/sale of both a call and put component, against the appropriate number of shares underlying the option (generally 100 shares) the Exchange believes that the position should be treated as one contract for hedging purposes.

Under the proposed rule change, the standard position and exercise limits will remain in place for unhedged equity option positions. Once an account nears or reaches the standard limit, positions identified as a qualified hedge strategy will be exempted from position limit calculations. The exemption will be automatic (*i.e.*, does not require pre-approval from the Exchange) to the extent that the member identifies that a pre-existing qualified hedge strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to the Exchange.

The exemption will remain in effect to the extent that the exempt positions remain intact and the Exchange is provided with any required supporting documentation. Procedures to demonstrate that the option position remains qualified are similar to those currently in place. Exchange procedures currently require a qualified account to report to the Exchange hedge information each time the option position changes. Hedge information for member firm and customer accounts having 200 or more contracts are electronically reported via the Large Options Positions Report. Market maker account information is also reported to the Exchange electronically by the member's clearing firm. The existing requirement imposed on member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess

of 10,000 contracts will continue to apply.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange¹⁰ and, in particular, the requirements of section 6 of the Act¹¹ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act¹² in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Position and exercise limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. In general, the Commission has taken a gradual, evolutionary approach toward expansion of position and exercise limits. The Commission has been careful to balance two competing concerns when considering the appropriate level at which to set position and exercise limits. The Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market in the component securities comprising the indexes. At the same time, the Commission has determined that limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.¹³

The Commission has carefully considered the PCX's proposal to expand the hedge exemption from position and exercise limits. Given the market neutral characteristic of all the proposed qualified hedge strategies (except covered stock positions), the Commission believes it is permissible to expand the current equity hedge exemption without risk of disruption to the options or underlying cash markets.

Specifically, the Commission believes that existing position and exercise limits, procedures for maintaining the exemption, and the reporting requirements imposed by the Exchange will help protect against potential manipulation. The Commission notes that the existing standard position and exercise limits will remain in place for unhedged equity option positions. To further ensure against market disruption, the PCX will establish a position and exercise limit equal to no greater than five times the standard limit for those hedge strategies that include an OTC option component.

Once an account nears or reaches the standard limit, positions identified as one or more of the proposed qualified hedge strategies will be exempted from limit calculations. Although the exemption will be automatic (*i.e.*, does not require pre-approval from the Exchange), the exemption will remain in effect only to the extent that the exempted position remains intact and that the Exchange is provided with any required supporting documentation.

In addition, as described above, a qualified account must report hedge information each time the option position changes. Hedge information for member firm and customer accounts are reported to the Exchange electronically, via the Large Options Position Report. Market maker account information is also reported to the Exchange electronically by the member's clearing firm. For those option positions that do not change, a filing is generally required on a weekly basis. Finally, the existing requirement imposed on member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will remain in place.

The Commission believes these reporting requirements will help the PCX to monitor options positions and ensure that only qualified hedges are being exempt from position and exercise limits. To the extent that any position raises concerns, the Commission believes that the PCX, through its monitoring, will be promptly notified, and the Commission would expect the PCX to take any appropriate action, as permitted by its rules.

Finally, the Commission notes that the proposal, as amended, is substantially identical to proposed rule changes submitted by the Chicago Board Options Exchange, Inc. ("CBOE") and the American Stock Exchange LLC ("Amex"), which the Commission has

¹⁰ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(5).

¹³ *Id.*

⁹ At or about the same time.

approved.¹⁴ The Commission does not believe that the proposed rule changes raises novel regulatory issues that were not already addressed and should benefit Exchange members by permitting them greater flexibility in using hedge strategies advantageously, while providing an adequate level of protection against the opportunity for manipulation of these securities and disruption in the underlying market.

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,¹⁵ for approving Amendment No. 1 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

Amendment No. 1 establishes a position and exercise limit equal to no greater than five times the standard limit for those hedge strategies that include an OTC option component. Setting the position and exercise limit at this level should provide Exchange members greater flexibility in using hedge strategies advantageously, while providing an adequate level of protection against the opportunity for manipulation of these securities and disruption in the underlying market. Accordingly, the Commission finds good cause, consistent with sections 6(b)(5)¹⁶ and 19(b)(2)¹⁷ of the Act to accelerate approval of Amendment No. 1 to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether it 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 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-00-45 and should be submitted by May 8, 2002.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁸ that the proposed rule change (File No. SR-PCX-00-45), as amended, be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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SELECTIVE SERVICE SYSTEM

Form Submitted to the Office of Management and Budget for Extension of Clearance

The following form has been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS-1

Title: The Selective Service System Registration Form.

Need and/or Use: Is used to register men and establish a data base for use in identifying manpower to the military services during a national emergency.

Respondents: All 18-year-old males who are United States citizens and those male immigrants residing in the United States at the time of their 18th birthday are required to register with the Selective Service System.

Frequency: Registration with the Selective Service System is a one-time occurrence.

Burden: A burden of 2 minutes or less on the individual respondent.

Copies of the above identified form can be obtained upon written request to: Selective Service System, Reports Clearance officer, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425.

Written comments and recommendations for the proposed extension of clearance of the form should be sent within 30 days of publication of this notice, to: Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425.

A copy of the comments should be sent to: Office of Information and

Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: April 3, 2002.

Alfred Rascon,

Director.

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SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

The following forms have been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS Form No. and Title:

- SSS Form 152, Alternative Service Employment Agreement
- SSS Form 153, Employer Data Sheet
- SSS Form 156, Skills Questionnaire
- SSS Form 157, Alternative Service Job Data Form
- SSS Form 160, Request for Overseas Job Assignment
- SSS Form 163, Employment Verification Form
- SSS Form 164, Alternative Service Worker Travel Reimbursement Request
- SSS Form 166, Claim for Reimbursement for Emergency Medical Care

Copies of the above identified forms can be obtained upon written request to the Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425.

No changes have been made to the above identified forms. OMB clearance is limited to requesting a three-year extension of the current expiration dates.

Written comments should be sent within 60 days after the publication of this notice, to: Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425.

A copy of the comments should be sent to Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20435.

¹⁴ See Securities Exchange Act Release No. 45650 (March 26, 2002), 67 FR 15638 (April 2, 2002) (SR-Amex-2001-72); Securities Exchange Act Release No. 44503 (March 20, 2002), 67 FR 14751 (March 27, 2002) (SR-CBOE-00-12).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).