

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46115; File No. SR-PCX-2002-34]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to a Six-Month Extension of the Automatic Execution System Incentive Pilot Program

June 25, 2002.

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 June 7, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On June 21, 2002, the PCX submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change has been filed by the Phlx as a "non-controversial" rule change under Rule 19b-4(f)(6) of the Act.<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 extend the Automatic Execution System ("Auto-Ex") Incentive Pilot Program for six months. The text of the proposed rule

change is available at the Office of the Secretary, PCX and at the Commission.

#### 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

On September 25, 2001, the Commission approved, on a nine-month pilot basis, the Exchange's proposal to amend PCX Rule 6.87, which governs the operation of Auto-Ex<sup>5</sup> to provide an Auto-Ex Incentive Program for apportioning Auto-Ex trades among Market Makers.<sup>6</sup> The pilot program is currently set to expire on June 25, 2002.<sup>7</sup>

The Auto-Ex Incentive Program allows the Exchange to assign Auto-Ex orders to logged-on Market Makers according to their percentage of their in-person agency<sup>8</sup> contracts traded in an issue (excluding Auto-Ex contracts traded) compared to all of the Market Maker in-person agency contracts traded (excluding Auto-Ex contracts) during the review period. The review period is determined by the Options Floor

<sup>5</sup> Auto-Ex is the Exchange's Automated Execution system feature of the Pacific Options Exchange Trading System ("POETS") for market or marketable limit orders. POETS is the Exchange's automated trading system comprised of an options order routing system, Auto-Ex, an on-line order book system, and an automatic market quote update system. Option orders may be sent to POETS via the Exchange's Member Firm Interface ("MFI"). Market and marketable limit orders sent through the MFI will be executed by Auto-Ex if they meet order type and size requirements to the Exchange.

<sup>6</sup> See Securities Exchange Act Release No. 44847 (September 25, 2001), 66 FR 50237 (October 2, 2001).

<sup>7</sup> The proposed rule changes were, in part, based on CBOE Rule 6.8 *Interpretations and Policies* .06(c) "100 Spoke RAES Wheel". The 100 Spoke RAES Wheel pilot program has received three extensions, the latest being a six month extension issued on January 3, 2002. See Securities Exchange Act Release No. 45230 (January 3, 2002), 67 FR 1380 (January 10, 2002).

<sup>8</sup> Agency contracts are those contracts that are represented by an agent and do not include contracts traded between Market Makers in person in the trading crowd.

Trading Committee ("OFTC") and may be for any period of time not in excess of two weeks.<sup>9</sup> The percentage distribution determined for a review period will be effective for the succeeding review period.

The Exchange is requesting an additional extension of the pilot program for six months from June 25, 2002 to December 24, 2002. The Exchange is in the process of collecting data to determine the effect of the Auto-Ex Incentive Program on the apportionment of Auto-Ex trades among Market Makers. The added time permits the Exchange an opportunity to continue reviewing and evaluating the program. Therefore, the Exchange believes that a six-month extension of the program is warranted.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, 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 facilitate transactions in securities, to promote just and equitable principles of trade, enhance competition 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, as amended, 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

Written comments 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 Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> Because the foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and

<sup>9</sup> The OFTC has set a two-week review period for all options classes and the OFTC will not vary the term of the review period except for exigent circumstances.

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

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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See letter from Michael Pierson, Vice President, Regulatory Policy, PCX, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 20, 2002. In Amendment No. 1, the PCX explained that it had inadvertently made two virtually identical submissions to the Commission, which were received on June 7, 2002 and June 14, 2002, respectively, and were both titled SR-PCX-2002-34. The only difference between the two submissions was that the latter contained a pilot expiration date of December 24, 2002 (rather than December 25, 2002 as in the original document). Amendment No. 1 stated that the PCX wished to treat the second submission as amending the first by replacing it in full. Consequently, the operative pilot expiration date is December 24, 2002.

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

(3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission 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 filing of the proposed rule change, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6)<sup>15</sup> thereunder.

The Exchange has requested that the Commission waive the five-day pre-notice requirement and the 30-day operative delay, to permit the Exchange to implement the proposal immediately. Under Rule 19b-4(f)(6)(iii), a proposed "non-controversial" rule change does not become operative for 30 days after the date of filing, unless the Commission designates a shorter time.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow for the continued operation of PCX's Auto-Ex Incentive Pilot Program without interruption.<sup>16</sup> For these reasons, the Commission designates the proposed rule change, as amended, to be effective and operative upon filing with the Commission. The Commission also waives the five-business day pre-filing requirement. 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.<sup>17</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, as amended, 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 the File No. SR-PCX-2002-34 and should be submitted by July 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SOCIAL SECURITY ADMINISTRATION

### The Ticket to Work and Work Incentives Advisory Panel Teleconference

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of teleconference.

**DATES:** Monday July 29, 2002.

*Teleconference:* Monday July 29, 2002, 11 AM to 1 PM.

Ticket to Work and Work Incentives Advisory Panel Conference Call

*Call-in number:* 800-857-9091.

*Pass code:* PANEL.

*Leader/Host:* Sarah Wiggins Mitchell.

#### SUPPLEMENTARY INFORMATION:

*Type of meeting:* This teleconference meeting is open to the public. The interested public is invited to participate by calling into the teleconference at the number listed above. Public testimony will not be taken.

*Purpose:* In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces this teleconference meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Public Law 106-170 establishes the

<sup>18</sup> 17 CFR 200.30-3(a)(12).

Panel to advise the Commissioner of SSA, the President, and the Congress on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

*Agenda:* The Panel will deliberate on the implementation of TWWIIA and conduct administrative business. The Panel will be discussing establishing priorities for action in 2003. The agenda for this teleconference meeting will be posted on the Internet at <http://www.ssa.gov/work/panel/> one week prior to the teleconference or can be received in advance electronically or by fax upon request.

*Contact Information:* Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff by:

- Mail addressed to Ticket to Work and Work Incentives Advisory Panel Staff, Social Security Administration, 400 Virginia Avenue, SW, Suite 700, Washington, DC, 20024;
- telephone contact with Kristen Breland at (202) 358-6430;
- fax at (202) 358-6440; or
- e-mail to [TWWIIAPanel@ssa.gov](mailto:TWWIIAPanel@ssa.gov).

Dated: June 25, 2002.

**Deborah M. Morrison,**

*Designated Federal Officer.*

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## DEPARTMENT OF STATE

[Public Notice 4059]

### Office of Visa Services; Notice of Information Collection under Emergency Review: Form DS-158, Contact Information and Work History for Nonimmigrant Visa Applicant

**ACTION:** Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

*Type of Request:* Emergency Review.  
*Originating Office:* Bureau of Consular Affairs, Department of State (CA/VO).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>17</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on June 21, 2002, the date that the Exchange filed Amendment No. 1.