

SECURITIES AND EXCHANGE COMMISSION

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Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. To Transfer Responsibility for Certain Auto-Ex Determinations From the Options Floor Trading Committee to Two Floor Officials

January 10, 2003.

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 February 11, 2002, the Pacific Exchange, Inc. ("PCX") filed with the Securities and Exchange Commission the proposed rule change as described in items I, II and III below, which the PCX has prepared. On December 31, 2002, the PCX filed Amendment No. 1 to the proposed rule change, which replaced the original filing in its entirety. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change, as amended.

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

The PCX is proposing to amend PCX Rule 6.87 in order to give two PCX floor officials, rather than the PCX's Options Floor Trading Committee ("OFTC"), the authority to make day-to-day determinations with respect to the PCX's Automatic Execution System ("Auto-Ex"). The text of the proposed rule change is below. New text is italicized and deleted text is in brackets.

Automatic Execution System

Rule 6.87(a)—No Change.

(b) Eligible Orders.

(1) Only non-broker/dealer customer orders are eligible for execution on the Exchange's Auto-Ex System, except that [the Options Floor Trading Committee ("OFTC")] *two Floor Officials* may determine, on an issue-by-issue basis, to allow the following types of orders to be executed on Auto-Ex:

(A) Broker-dealer orders; or

(B) Broker-dealer orders that are not for the accounts of Market Makers or Specialists on an exchange who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to section 7(c)(2) of the Securities Exchange Act of 1934.

Broker-dealer orders entered through the Exchange's Member Firm Interface (MFI) will not be automatically executed against orders in the limit order book. Broker-dealer orders may interact with orders in the limit order book only after being re-routed to a floor broker for representation in the trading crowd. Broker-dealer orders are not eligible to be placed in the limit order book pursuant to rule 6.52.

(2) If [the OFTC] *two Floor Officials* permit[s] broker-dealer orders to be automatically executed in an issue pursuant to this rule, then [it] *they* may also permit the following with respect to such orders:

(A) The maximum order size eligibility for broker-dealer orders may be less than the applicable order size eligibility for non-broker-dealer customer orders.

(B) Non-broker-dealer customer orders may be eligible for automatic execution at the NBBO pursuant to rule 6.87(i) while broker-dealer orders are not so eligible.

(C) Broker-dealer orders may be re-routed for manual representation when the NBBO is crossed or locked pursuant to rule 6.87(j) while non-broker-dealer customer orders would not be re-routed for manual handling in such circumstances.

(3)—(4)—No change.

(5) The Options Floor Trading Committee ("OFTC") *or its delegate consisting of two Floor Officials* shall determine the size of orders that are eligible to be executed on Auto-Ex. *The OFTC or its delegate, two Floor Officials, may approve requests of the Lead Market Makers to execute orders on Auto-Ex in sizes greater than 20 contracts.* Although the order size parameter may be changed on an issue-by-issue basis by the OFTC *or its delegate, two Floor Officials*, the maximum order size for execution through Auto-Ex is as follows:

(A) Equity Options: the maximum order size for execution through Auto-Ex for equity options is one hundred (100) contracts;

(B) Index Options: the maximum order size for execution through Auto-Ex is one hundred (100) contracts for:

(i)—(iii)—No change.

(6) The OFTC *or its delegate consisting of two Floor Officials* may increase the size of Auto-Ex eligible orders in one or more classes of multiply traded equity options to the extent that other options exchanges permit such larger-size orders in multiply traded equity options of the same class or classes to be entered into their own automated execution systems. If the OFTC *or its delegate, two Floor*

Officials intend[s] to increase the Auto-Ex order size eligibility pursuant to this subsection, the Exchange will notify the Securities and Exchange Commission pursuant to section 19(b)(3)(A) of the Exchange Act.

(c)—(d)—No change.

(e) Market Maker Requirements and Eligibility. Any Exchange Member who is registered as a Market Maker and who has obtained written authorization from a clearing member is eligible to participate on the Auto-Ex system, subject to the following conditions and requirements:

(1)—No Change.

(2) All Auto-Ex trades to which a Market Maker is a party will be assigned to and clear into that Market Maker's designated account. Market Makers may designate that their Auto-Ex trades be assigned to and clear into either an individual account or a joint account in which that Market Maker is a participant. Unless exempted by [the Options Floor Trading Committee] *two Floor Officials*, only one participant in a joint account may use the account for trading in a particular option issue at one time.

(3)—(7)—No change.

(f)—(h)—No change.

(i) Auto-Ex NBBO. The Options Floor Trading Committee ("OFTC") *or its delegate, two Floor Officials* may approve an LMM's request to designate electronic orders in an option issue to receive automatic executions at prices reflecting the national best bid or offer ("NBBO"), provided that the OFTC *or its delegate, two Floor Officials* may also designate, for an option issue, that an order will default for manual representation in the trading crowd [of] *if the order would be executed at a price that is more than one trading increment away from the PCX market price. LMMs may determine the maximum size of orders that are eligible to receive executions at the national bid or offering price, provided that this determination is subject to the approval of the OFTC or its delegate, two Floor Officials.*

(j) Crossed or locked Markets. [The OFTC] *Two Floor Officials* may approve an LMM's request to designate, for an option issue, that an order will default for manual representation in the trading crowd [is] *if the NBBO is crossed or locked.*

(k)—(p)—No change.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.