

purpose of and basis for the proposed rule change and discussed any comments it had received. The text of the 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 the statements.

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

1. Purpose

The OFTC conducts general supervision of the PCX options floor and recommends to the PCX's Board of Governors the rules that it believes are necessary for members to conduct fair and orderly transactions on the trading floor.³ Individual members of the OFTC serve as floor officials and routinely make certain *ad hoc* decisions on the trading floor pursuant to PCX rules.⁴ Under PCX rules, the OFTC maintains supervision over various issues that arise with respect to Auto-Ex and exercises its discretion in resolving those issues. Currently, PCX rules assign the responsibility over some Auto-Ex determinations to the entire OFTC and the responsibility for other Auto-Ex determinations to two floor officials. Consequently, the responsibility of making day-to-day determinations with respect to Auto-Ex is sometimes exercised by the full OFTC and at other times by two floor officials. The PCX believes that this split of responsibility is inconsistent and not clearly defined in current PCX rule 6.87.

The PCX now proposes to amend PCX rule 6.87 in order to transfer the responsibility for making *ad hoc* decisions on more routine Auto-Ex matters from the OFTC to two floor officials. The OFTC currently meets semi-monthly to address system-wide Auto-Ex issues, and the PCX believes that it is impractical for the OFTC to convene on the trading floor to make *ad hoc* decisions or to grant exemptive relief on a case-by-case basis. The PCX believes that referring the case-by-case decisions to two floor officials will prove to be efficient and effective, and more in line with the practical operations of the trading floor. Specifically, the PCX proposes to assign the responsibility from the OFTC to two floor officials with respect to the following matters:

Rule 6.87(b)—Eligible orders: Under the proposed rule, two floor officials would be permitted to grant exemptions, on an issue-by-issue basis, allowing certain broker-dealer orders to be executed on Auto-Ex under specific circumstances.⁵ The proposed rule further permits the OFTC to delegate to two floor officials the power to approve case-by-case requests of Lead Market Makers ("LMMs") to execute Auto-Ex orders in sizes greater than the market maker's Auto-Ex size commitment and to increase the size of eligible orders in one or more classes of multiply traded options.⁶

Rule 6.87(e)—Market Maker Requirements and Eligibility: Under the proposed rule, two floor officials may grant an exemption to the rule that only one participant in a joint account may use the account for trading in a particular option issue at one time.

Rule 6.87(i) "Auto-Ex NBBO": Under the proposed rule, the OFTC may delegate to two floor officials the power to 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") under certain circumstances. The proposed rule further provides that 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.

Rule 6.87(j)—Crossed or Locked Markets: Under the proposed rules, two floor officials may approve an LMM's request to designate that an order will default for manual representation in the trading crowd if the NBBO is crossed or locked.

The proposed rule continues to grant to the OFTC the responsibility to make broad-based decisions.⁷

2. Statutory Basis

The PCX believes that the proposed rule change is consistent with section 6(b) of the Act⁸ and furthers the objectives of section 6(b)(5) of the Act⁹ in that it has been designed to facilitate transactions in securities, 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.

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

The PCX 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 PCX 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 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 PCX 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 the 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-2002-09 and should be submitted by February 7, 2003.

³ See PCX Constitution article IV, section 8(a).

⁴ *Id.* at section 8(e); see, e.g., PCX rule 6.87(h) (two Floor Officials may declare a floor-wide "fast market" under certain circumstances).

⁵ See PCX rule 6.87(b)(1) and (2).

⁶ See PCX rule 6.87(b)(5) and (6).

⁷ See, e.g., PCX rule 6.87(k) (assigning to the OFTC the responsibility to determine the manner in which orders entered through the Auto-Ex system will be assigned).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).