

2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k) of the Act.⁵

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

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the Commodity Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

NFA did not publish the rule changes to the membership for comment. NFA did not receive comment letters concerning the rule changes.

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

Pursuant to Section 19(b)(7)(B) of the Act,⁶ the proposed rule change became effective on May 2, 2003.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.⁷

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically to the following e-mail address: rule-comments@sec.gov. 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 these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's Web site (<http://www.sec.gov>). All submissions should refer to File No. SR-NFA-2003-03 and should be submitted by June 9, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47838; File No. SR-PCX-2002-36]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 2 and 3 to the Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Exchange's New Trading Platform for Options, PCX Plus

May 13, 2003.

I. Introduction

On June 27, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), 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 adopt new rules for the implementation of its new trading platform for options, PCX Plus. The PCX's proposal also includes new rules on priority and allocations of orders, rule changes to permit options Market Makers³ to conduct their trading activities from locations away from the trading floor, and proposed system changes to accommodate new order handling procedures and automated trade processing. On November 6, 2002, the PCX filed Amendment No. 1 to the proposed rule change.⁴ The proposed rule change and Amendment No. 1 were

published for comment in the **Federal Register** on November 18, 2002.⁵ The Commission received four comment letters with respect to the proposal and Amendment No. 1.⁶ On April 9, 2003, the PCX filed Amendment No. 2 to the proposed rule change.⁷ On April 16, 2003, the PCX filed Amendment No. 3 to the proposed rule change, withdrew Amendment No. 3 on April 22, 2003, and refiled Amendment No. 3 on April 22, 2003.⁸ This order approves the proposed rule change and Amendment No. 1; grants accelerated approval to Amendments No. 2 and 3 to the proposed rule change; and solicits comments from interested persons on Amendments No. 2 and 3.

II. Description of the Proposal

The Exchange has designed a new trading platform for options, PCX Plus. This new hybrid model combines the features of traditional floor-based markets and new electronic trading systems, while preserving a single marketplace with a single book. It allows PCX members to trade as Market Makers from locations away from the trading floor. For those options designated for trading on PCX Plus, the proposal replaces the PCX's current priority rules with new ones and expands upon the Exchange's current trading rules by permitting the entry of

⁵ Securities Exchange Act Release No. 46803 (November 8, 2002), 67 FR 69580 ("Notice of the Proposal").

⁶ See letters to Jonathan G. Katz, Secretary, Commission, from Thomas Peterffy, Chairman, and David M. Battan, Vice President and General Counsel, Interactive Brokers Group LLC ("IB Group"), dated December 9, 2002 ("IB Group Letter"); Meyer S. Frucher, Chairman and Chief Executive Officer, Philadelphia Stock Exchange, Inc. ("Phlx"), dated December 9, 2002 ("Phlx Letter"); Thomas N. McManus, Executive Director and Counsel, Morgan Stanley & Co., Incorporated ("Morgan Stanley"), dated January 6, 2003 ("Morgan Stanley Letter"); and Gerald D. O'Connell, Associate Director, Susquehanna International Group, LLP ("Susquehanna"), dated January 8, 2003 ("Susquehanna Letter") (collectively, "Comment Letters").

⁷ See letter from Kathryn L. Beck, Senior Vice President, General Counsel, and Corporate Secretary, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 7, 2003 ("Amendment No. 2"). See Section III. of this order for a detailed description of Amendment No. 2.

⁸ See letter from Peter D. Bloom, Acting Managing Director, Regulatory Policy, PCX, to Deborah L. Flynn, Assistant Director, Division, Commission, dated April 14, 2003 ("Amendment No. 3"). The PCX withdrew Amendment No. 3 and refiled it on April 22, 2003, after making minor technical changes to the proposed rule text. See letter from Peter D. Bloom, Acting Managing Director, Regulatory Policy, PCX, to Deborah L. Flynn, Assistant Director, Division, Commission, dated April 21, 2003. In Amendment No. 3, PCX made clarifications to proposed Commentary .02 to PCX Rule 6.64 regarding the procedures for determining a single price opening for options issues designated for trading on PCX Plus.

⁵ 15 U.S.C. 78o-3(k).

⁶ 15 U.S.C. 78s(b)(7)(B).

⁷ 15 U.S.C. 78s(b)(1).

⁸ 17 CFR 200.30-3(a)(75).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Proposed PCX Rule 6.32(a) (defines "Market Maker" as an individual who is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the floor of the Exchange or, in the case of a Remote Market Maker, through the facilities of the Exchange).

⁴ Amendment No. 1 replaced the PCX's original Rule 19b-4 filing in its entirety.