

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act³ and rule 19b-4(f)(1)⁴ thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, enforcement, or administration of an existing rule. 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-OCC-2002-26. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR-OCC-2002-26 and should be submitted by February 18, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47211; File No. SR-PCX-2002-55]

Self Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Regarding Market Maker Quoting Obligations

January 17, 2003.

On August 7, 2002, 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 require options market makers to vocalize a legal-width, two-sided market for a minimum of ten contracts whenever a floor broker enters a trading crowd and calls for a market in an option series that is one of the 120 most actively traded equity options ("Top 120 options"). This obligation would apply to: (i) Market makers who have executed a transaction in a Top 120 option, but not those who have been assigned contracts by the Order Book Official on either the day of the floor broker's call for a market or on the previous business day; (ii) non-broker-dealer orders; and (iii) series not designated as LEAPS.³

On November 8, 2002, the Exchange submitted Amendment No. 1 to the proposed rule change.⁴ The proposed rule change was published for comment in the **Federal Register** on December 13, 2002.⁵ The Commission received no comment letters on the proposal. This order approves the proposal, as amended.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

securities exchange⁶ and, in particular, the requirements of Section 6(b)(5) of the Act.⁷

The Commission believes that the proposal should provide greater depth and liquidity to the marketplace by increasing from one contract to ten contracts most PCX market makers' minimum quoting obligation when a floor broker enters the crowd with a non-broker-dealer order and calls for a market in the Top 120 options. The Commission notes that the increased quote size obligations for the Top 120 options applies to market makers that have executed a trade on the same or previous day that a floor broker requests a market in a particular Top 120 option. The Commission believes it is appropriate that the proposal does not apply to market makers that have executed a trade only as a result of the assignment of contracts by the Order Book Official in an attempt to satisfy an order represented by the floor broker,⁸ because market makers should not have their quoting obligations increased when fulfilling their obligation to assist an Order Book Official attempting to satisfy an order represented by a floor broker.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-PCX-2002-55) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See PCX Rule 6.4.

⁴ See letter from Steven B. Matlin, Senior Counsel, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated November 7, 2002.

⁵ See Securities Exchange Act Release No. 46947 (December 4, 2002), 67 FR 76771.

⁶ In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

⁸ See PCX Rule 6.37, Commentary .05.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).