

the name of an applicant for membership must be published to other Exchange members. 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

The PCX reviewed its membership posting requirements relative to those of other option exchanges. In doing so, the PCX concluded that the current membership posting requirements were enacted at a time when electronic communication was not as fast or as prevalent as it is today. As a result, the Exchange's current rule requiring a new applicant for membership be posted for ten (10) calendar days is antiquated and unduly burdensome on the potential applicant. Therefore, the Exchange is proposing to amend its Rule 1.6(b) and Rule 6.44(a). The proposed rule will require that following receipt of a membership application, the Exchange shall post the applicant's name for a period of three (3) business days. The PCX Membership Committee may shorten or waive the posting period for an applicant if it determines that extenuating circumstances warrant such action. Applicants seeking to shorten or waive the posting period are required to submit a written statement that sufficiently describes the basis for their request. In reviewing a request to shorten or waive the three (3) business day posting period, the Membership Committee will consider factors such as the applicant's capitalization, options industry experience, disciplinary history, affiliations with other self regulatory organizations and any other factors deemed relevant by the Committee. An applicant whose request to shorten or waive the three (3) business day posting period is denied

will not be given the opportunity to appeal such decision.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>3</sup> in general, and furthers the objectives of section 6(b)(5),<sup>4</sup> in particular, because it is designed 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 and perfect the mechanisms of a free and open market 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 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)(i) of the Act<sup>5</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>6</sup> Consequently, because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (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>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

Pursuant to Rule 19b-4(f)(6)(iii),<sup>9</sup> a proposed "non-controversial" rule change does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The PCX has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become immediately effective upon filing.<sup>10</sup>

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>11</sup> Accelerating the operative date will allow for a more efficient and effective market operation by enabling Exchange access to new members in a more timely manner. For this reason, the Commission designates the proposed rule change to be effective and operative immediately.

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. 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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</sup> In its original filing, PCX inadvertently also had requested that the Commission waive the five day pre-filing period. PCX had, in fact, already provided the Commission with the appropriate five day notice. Telephone conference among Steven B. Matlin, Peter D. Bloom, Regulatory Policy, PCX, and Geoffrey Pemble, Special Counsel, Division, Commission (September 16, 2003).

<sup>11</sup> For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(i).

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