

suspended, submission of CEAs to the Exchange will be required only when the options holder wants to exercise the option contract.

The proposed rule change would also permit the Exchange to establish different cut-off times as an exception to amended PCX Rule 6.24(c) to address situations where the Exchange has advance prior knowledge or warning of a modified trading session at expiration, or in the case of "unusual circumstances."

Specifically, proposed PCX Rule 6.24(g) would apply when a different or modified close of trading is announced due to a market-wide event. In such cases, the Exchange would have forewarning of the event and would be required to provide notice of a change in cut-off times by 2:30 p.m. (PST) on the business day prior to the last trading day before expiration. For example, if the day after Thanksgiving is the last trading day prior to expiration with a close of trading of 10 a.m. (PST), then the Exchange would, with prior notice by 2:30 p.m. (PST) on the Wednesday before Thanksgiving, be able to establish the cut-off time for option holders to decide whether to exercise expiring options to 1 hour 28 minutes after the close of trading. With respect to the submission of CEAs by Members and Member Organizations, the cut-off time would be 2 hours and 28 minutes after the close of trading for customer accounts and non-customer accounts where the Members and Member Organizations employ an electronic procedure with time stamp for the submission of exercise instructions. Members and Member Organizations that do not employ an electronic submission procedure for exercise instructions would be required to submit a CEA within 1 hour and 28 minutes after the close of trading for its non-customer accounts. Accordingly, the normal exercise cut-off times would not apply and, similar to amended PCX Rule 6.24(c), the deadline for submitting CEAs to the Exchange for non-customer accounts would depend on the use of an electronic submission procedure for the submission of exercise instructions.

Proposed PCX Rule 6.24(h)(1) would permit the Exchange to extend the cut-off time periods for option holders to decide whether to exercise expiring options, as well as for Members to submit CEAs due to unusual circumstances. Situations that are deemed to be an "unusual circumstance" are set forth in revised Commentary .03 to PCX Rule 6.24. An "unusual circumstance" for purposes of proposed paragraph (h)(1) includes, but is not limited to, increased market

volatility; significant order imbalances; significant volume surges and/or systems capacity constraints; significant spreads between the bid and offer in underlying securities; internal system malfunctions affecting the ability to disseminate or update market quotes and/or deliver orders; or other similar occurrences.

Proposed PCX Rule 6.24(h)(2) would permit the Exchange, with one (1) business day prior advance notice by 9 a.m. (PST), to establish a reduced cut-off time for option holders to decide whether to exercise expiring options as well as for Members to submit CEAs. The reduced cut-off time under this new paragraph for both exercise decisions and CEA submissions may not occur before the close of trading. The primary purpose of proposed paragraph (h)(2) is to permit the Exchange to reduce cut-off times because of an "unusual circumstance," such as a significant news event occurring after the close. Revised Commentary .03 to PCX Rule 6.24 provides that, for purposes of subparagraph (h)(2), an "unusual circumstance" is a significant news announcement concerning the underlying security of an option contract that is scheduled to be released after the close on the last trading day prior to expiration. For example, a decision on whether a particular merger will be approved or whether a new product will receive regulatory approval that occurs after the close of trading would justify a reduced cut-off time so that persons holding short positions are not prejudiced by being unable to close out their positions. The Exchange believes that this would maintain a level playing field between persons holding long and short positions in expiring options.

## 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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

The Exchange does not believe that the proposed rule change, as amended, 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 on the proposed rule change, as amended, were neither solicited nor received.

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

The proposed rule change, as amended, has been filed by the Exchange pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</sup> 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) does not become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>17</sup> and Rule 19b-4(f)(6)<sup>18</sup> thereunder.<sup>19</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>20</sup> normally does not become operative prior to thirty days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The PCX has requested that the Commission waive the thirty-day operative date of the proposed rule change due to the Exchange's need to maintain competition and efficiency.

The Commission believes that waiving the thirty-day operative date is consistent with the protection of investors and the public interest.<sup>21</sup>

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on