

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

The Exchange has 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

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, and 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, it has become effective pursuant to section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸ 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 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX.

All submissions should refer to File No. SR-PCXC-2001-32 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44697; File No. SR-PCX-2001-29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Options Floor Member Examinations

August 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 26, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On August 2, 2001, the PCX amended the proposal.³ The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,⁴ and Rule 19b-4(f)(6)⁵ thereunder, which renders the proposal effective upon filing with the Commission.⁶ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new qualification examinations for PCX Options Market Makers and Floor Brokers. The text of the proposed rule

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See July 31, 2001 letter from Michael D. Pierson, Vice President, Regulatory Policy, PCX, to Joseph Morra, Special Counsel, Division of Market Regulation, Commission ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified that (a) the Market Maker examination consists of 100 questions, and that applicants will be given three hours to take the examination; and (b) the Floor Broker examination consists of 121 questions, and that applicants will be given three and one half hours to take the examination.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ The Exchange provided the Commission with written notice of its intent to file the proposal on July 9, 2001. The Exchange has asked the Commission to waive the 30-day operative delay to allow the proposal to be effective upon filing with the Commission. See Rule 19b-4(f)(6). 17 CFR 240.19b-4(f)(6).

change is available at the Commission and at the PCX.

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 its proposal and discussed any comments it received regarding the proposal. 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 currently administers examinations to qualify applicants to perform the functions of Market Makers and Floor Brokers on the Options Floor of the Exchange. Market Makers and Floor Brokers are required to pass these examinations pursuant to PCX Rules 6.33 and 6.44, respectively. Before being able to operate in the capacity of an Options Market Maker or Options Floor Broker, a prospective member must successfully complete the proposed examination that corresponds to the individual's role as a floor member. The commission approved these examinations in 1993.⁷

The Exchange now proposes to replace the current examinations with new sets of questions and answers. The new Floor Member Examination, to be taken by both Market Maker and Floor Broker applicants, consists of 100 questions that cover a variety of topics, including: exercise of option contracts, margin and net capital, reporting of financial arrangements, rules on bid-ask spread differentials, priority of bids and offers, the Exchange's automatic execution system, opening and closing rotations, firm quotes, fast markets, trading halts, general market maker obligations, position and exercise limits and other such subjects. Floor Broker applicants must also take an additional examination consisting of 21 questions that cover various topics, including the following: due diligence, limit order display, order types, error accounts, crossing orders, public outcry requirement, priority of bids and offers, fast markets, trading rotations and

⁷ See Securities Exchange Act Release No. 32550 (June 29, 1993), 58 FR 36489 (July 7, 1993) (order approving SR-PSE-91-15).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

permitted use of telephones on the trading floor. Accordingly, Market Makers are required to answer 100 questions and Floor Brokers are required to answer 121 questions.

The questions in both exams are equally weighted. All of the questions in the exams are multiple choice, true/false or fill in the blank. Applicants for the Market Maker examination will be given three hours to complete the examination. Applicants for the Floor Broker examination will be given three and one half hours to complete the examination. The Exchange believes that the new examinations cover a wide range of relevant topics in detail, so that the examination requirement will help to ensure that only those candidates with a comprehensive knowledge of the specific rules of the Exchange, as well as an understanding of relevant provisions of the Act, will be eligible for floor membership.

2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of section 6(b) of the Act,⁸ in general, and furthers the objectives of section 6(b)(5),⁹ in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, protect investors and the public interest. The Exchange also believes that the proposal is consistent with sections 6(C)(1)(A) and (B) of the Act, which permit the Exchange to condition or deny membership status to persons who do not meet such standards of training experience or competence as prescribed by Exchange rules.

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.

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

No written comments on the proposed rule change were neither solicited nor received.

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

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interests;
- (ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ 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.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to be operative upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. The Exchange has modified its orientation program for new members who intend to take a qualification examination. The orientation is intended to cover all of the general topics that are included in the qualification examinations. The Exchange provides an orientation for new members on the last Wednesday of every month, and members generally are permitted to take the qualification examination on any day following the orientation. Acceleration of the operative date will allow the PCX to immediately implement the new examinations, thereby requiring new PCX members to be qualified based upon higher standards than those standards applied using the former examination and orientation. Higher standards are consistent with the protection of investors and the public interest. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.¹²

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 such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR-PCX-2001-29 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Jonathan G. Katz,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Federal Aviation Administration

[Docket No. OST-2001-9849]

Notice of Market-based Actions to Relieve Airport Congestion and Delay

AGENCY: Department of Transportation (DOT), Federal Aviation Administration (FAA).

ACTION: Request for public comment on possible market-based actions to relieve airport congestion and delay.

SUMMARY: The Department of Transportation (DOT) is gathering information on the possible role, feasibility, and effectiveness of using market-based approaches to relieve airline flight delays and congestion at busy airports. It is the Department's intention to use this and other requests for comment along with the full array of public policy tools to develop a comprehensive aviation strategy that focuses on ways to reduce delays, improve airport capacity management, enhance competition and promote the efficiency of the overall aviation system. Market-based approaches are broadly defined to include all market-pricing regimes that could encourage air carriers to use limited capacity in a more efficient manner. We intend to meet with representatives from airports, airlines, professional associations, and

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² For purposes only 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).

¹³ 17 CFR 200.30-3(a)(12).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).