

as to place a burden on investors seeking to execute transactions on the Exchange.

The Commission also notes that the amendment to ISE Rule 717(g), which will limit the scope of that rule solely to prohibit EAMs from entering orders for ISE market maker accounts, recognizes that there are legitimate reasons why a member may enter orders on the Exchange through an EAM. These reasons can vary. For example, some EAMs may desire a temporary means of routing orders to the ISE until they are connected directly to the Exchange. In addition, a few members have clearing relationships with EAMs and thus route orders through those EAMs.

Therefore, the Commission finds that the proposed revisions to ISE Rule 717 are consistent with section 6(b) of the Act⁶ in general, and furthers the objectives of section 6(b)(5)⁷ in particular, in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.⁸

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-ISE-00-20) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44018; File No. SR-NYSE-01-04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., to Extend the Pilot Regarding Shareholder Approval of Stock Option Plans Through March 31, 2001

February 28, 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 February 26, 2001, the New York Stock Exchange, Inc., ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to extend, until March 31, 2001, the effectiveness of the amendments to section 312.01, 312.03 and 312.04 of the Exchange's Listed Company Manual with respect to the definition of a "broadly based" stock option plan, which amendments were approved by the Commission on a pilot basis (the "Pilot") on June 4, 1999.³

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 Exchange 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 Exchange 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

On July 12, 2000, the Exchange filed a proposed rule change seeking to extend the effectiveness of the Pilot until September 30, 2003.⁴ Following receipt of comments from interested parties and the SEC staff, on January 19, 2001, the Exchange filed an Amendment No. 1 to that filing proposing to shorten the three-year extension until September 30, 2001, and to amend the definition of "broadly based" under the Exchange's rule.⁵ Prior to the filing of Amendment No. 1, the Pilot had been extended to provide the Commission and the Exchange with additional time to review and evaluate comment letters submitted to the Commission regarding the Extension Proposal.⁶

The Exchange now proposes to further extend the effectiveness of the Pilot until March 31, 2001 to provide the Commission and the Exchange with additional time to complete the review and evaluation of the above-referenced comment letters.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of an exchange be 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, 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

⁴ Securities Exchange Act Release No. 43111 (August 2, 2000), 65 FR 49046 (August 10, 2000) ("Extension Proposal").

⁵ See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC dated January 18, 2001 and accompanying amended Form 19b-4 ("Amendment No. 1").

⁶ See Securities Exchange Act Release No. 43647 (November 30, 2000), 65 FR 77407 (December 11, 2000) (proposal to extend the effectiveness of the pilot through February 28, 2001). See also Securities Exchange Act Release No. 43329 (October 2, 2000), 65 FR 58833 (October 2, 2000) (proposal to extend the effectiveness of the pilot period through November 30, 2000).

⁷ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 41479, 64 FR 31667 (June 11, 1999).

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

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 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 30 days from 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 proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)⁹ thereunder.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6)¹¹ normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹² the commission may designate a shorter time if such action is consistent with the protection of investors and public interest. The Exchange seeks to have the proposed rule change become operative on or before February 28, 2001, in order to allow the Pilot to continue in effect on an uninterrupted basis.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately through March 31, 2001. The extension of the Pilot will provide the Commission with additional time to review and evaluate the Extension Proposal.

The Commission notes that unless the Pilot is extended, the Pilot will expire and the provisions of Sections 312.01, 312.03, and 312.04 of the Exchange's Listed Company Manual that were amended in the Pilot will revert to those in effect prior to June 4, 1999. The Commission believes that such a result could lead to confusion.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately through March 31, 2001. 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 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 NYSE. All submissions should refer to File No. SR-NYSE-01-04 and should be submitted by March 28, 2001.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44026; File No. SR-PCX-01-03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. and Amendment No. 1 Thereto To Permit an Officer or Director of a Facility of PCX Equities To Serve on the PCX Equities Board of Directors

February 28, 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 January 9, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX. On February 20, 2001, PCX filed Amendment No. 1 to the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, as amended.

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

The PCX proposes to amend the Bylaws of its wholly-owned subsidiary, PCX Equities, Inc. ("PCXE" or "Corporation") to permit an officer or director of a facility of PCXE to serve on its Board of Directors. The text of the amended PCXE Bylaw is as follows:

Proposed additions are *italicized*.

ARTICLE III

Board of Directors

Number; Election; Qualification; Term Nomination

Sec. 3.02.

(a) The Board of Directors shall consist of not less than ten (10) or more

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, to Marc F. McKayle, Special Counsel, Division of Market Regulation, Commission, dated February 16, 2001 ("Amendment No. 1"). In Amendment No. 1, the Exchange amended the filing to indicate its belief that the statutory basis for the Commission's approval of the proposed rule change is section 6(b)(3) of the Act, as opposed to section 6(b)(5). The Exchange also made clear that the proposed rule change would not alter the present compositional balance of the PCXE Board of Directors between public directors and directors affiliated with brokers or dealers, and that at least 20% of the PCXE Board of Directors, but no fewer than two, will continue to be nominated by the Equity Trading Permit Holders Nominating Committee whether the size of the Board remains at ten (10) or is expanded to twelve (12).

⁸ 15 U.S.C. 78s(b)(93)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 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 time as designated by the Commission.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ 17 CFR 200.30-3(a)(12).