

future, unlike the writer of an option, may be making rather than receiving a payment. Both short positions and long positions in security futures are treated as "securities" under these rules, and hence the proceeds from positions in security futures, whether resulting from a closing transaction or from a variation payment, are treated like premiums received on the closing sale of an option. Since, as noted above, futures in the (securities) customers' account are always "unsegregated" (for purposes of Rule 611), there is no need for rules relating to the disposition of "segregated" security futures.

OCC is also taking this opportunity to clarify in Rule 1105(d) that, where a charge is appropriately made against a market maker account, it will be made against that account and only any shortfall will be charged against the Liquidating Settlement Account. This is not a substantive change as the rules and the provisions of the market maker account agreements have always been interpreted in this way.

*viii. New Chapter XIII.* Following past practice for new products, OCC is proposing a new chapter of the rules relating to security futures. Rule 1301 sets forth the method for determining the amount of variation payments, including the final variation payment. It is anticipated that variation settlement will be affected only once each business day and that OCC would respond to unusually large intraday price moves by requiring additional risk margin. However, the proposed rules would give OCC the flexibility to effect an additional, intraday variation settlement if OCC deems such payment to be appropriate in unusual market conditions or to coordinate its actions with those of other clearing organizations.

Rule 1302 provides for delivery of stocks underlying physically-settled security futures that have reached maturity. This is accomplished primarily by cross-reference to the rules in Chapter IX. Rule 1303 provides that "associate clearinghouses" may clear transactions in security futures through OCC on an omnibus basis on behalf of their members that are not clearing members of OCC. Associate clearinghouses will be treated like any other clearing member for most purposes under the rules. OCC anticipates that one or more futures clearing organizations will become associate clearinghouses of OCC. The agreements under which these associate clearinghouses will operate have not yet been negotiated. There is precedent for such arrangements, however, in that OCC had such a relationship with the

clearinghouse for the European Options Exchange ("EOE") at a time when OCC-issued options were traded on EOE.<sup>6</sup>

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, removes impediments to and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, protects investors and the public interest.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed rule change would impose any burden on competition.

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(a) By order approve the proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing including whether the proposed rule 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 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 File No. SR-OCC-2001-07 and should be submitted by August 24, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Docket No. 34-44603; File No. SR-PCX-2001-27]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Withdrawing From the Joint-Exchange Options Plan**

July 27, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 27, 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 PCX. 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 PCX proposes to withdraw from the Joint-Exchange Options Plan ("JEOP")<sup>3</sup> upon Commission approval

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In September 1991, the Commission approved the JEOP for the selecting, listing, challenging, and arbitrating the eligibility of new standardized equity options filed by the American Stock Exchange LLC

<sup>6</sup> Securities Exchange Act Release No. 24832 (August 21, 1987), 52 FR 32377. The Commission notes that the order required OCC to file with the Commission under Rule 19b-4 of the Act any new international market agreement. The Commission expects OCC to undertake the same obligation with regard to future operating agreements it makes with any associate clearinghouse.

of the proposed Options Listing Procedures Plan ("OLPP").<sup>4</sup>

## 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 maybe 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

In January 2001, the options exchanges, including the PCX, submitted a proposed OLPP to replace the JEOP as directed by the Order.<sup>5</sup> The JEOP provided joint procedures to facilitate the orderly introduction of new equity options and established a mechanism to ensure that only eligible securities were selected for options trading. The OLPP eliminates various JEOP provisions that the Commission found objectionable, as specified in the Order. Therefore, the PCX has filed the proposed rule change to withdraw from the JEOP, effective as of the date of approval of the OLPP by the Commission. The Commission approved the OLPP on July 6, 2001.<sup>6</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

("Amex"), Chicago Board Options Exchange, Inc. ("CBOE"), New York Stock Exchange, Inc., PCX, and Philadelphia Stock Exchange, Inc. ("Phlx"). See Securities Exchange Act Release no. 29698 (September 17, 1991), 56 FR 48594 (September 25, 1991).

<sup>4</sup> The Commission directed the PCX, Amex, CBOE, and Phlx to amend the JEOP to eliminate advance notice to other markets of the intention to list a new or existing option; to eliminate any provisions of the JEOP that prevent a market from commencing to list or trade any option listed on another market or an option that another market has expressed an intent to list; and to eliminate any provisions of the JEOP that allow one market to delay the commencement of trading of an option on another market. See Section IV.B.a of the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) ("Order").

<sup>5</sup> See Exchange Act Release No. 44287 (May 10, 2001), 66 FR 27184 (May 16, 2001).

<sup>6</sup> See Securities Exchange Act Release No. 4521 (July 6, 2001, 66 FR 36809 (July 13, 2001).

Section 6(b) of the Act<sup>7</sup> in general and furthers the objectives of Section 6(b)(5)<sup>8</sup> in particular in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and 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.

### 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 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 interest; (ii) impose any significant burden on competition; (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 has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing, or such shorter time as designated by the Commission, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)<sup>10</sup> thereunder. 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, in furtherance of the purposes of the Act.

The Exchange has requested that the Commission accelerate the operative date and to waive the five-day pre-filing requirement so that the proposed rule change may take effect upon approval of the OLPP by the Commission. The Commission believes that it is consistent with the protection of investors and the public interest and therefore finds good cause to accelerate the operative date of the proposed rule change and to waive the five-day pre-filing requirement. Acceleration of the

operative date and waiving the pre-filing requirement will permit the Exchange to implement the OLPP without undue delay. For these reasons, the Commission finds good cause to designate that the proposal became operative immediately upon Commission approval of the OLPP.<sup>11</sup>

## 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 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 the File No. SR-PCX-2001-27 and should be submitted by August 24, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Margaret H. McFarland,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44611; File No. SR-PCX-2001-19]

### Self-Regulatory Organizations; Approval of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Exchange Rules Under the Minor Rule Plan

July 27, 2001.

#### I. Introduction

On April 4, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"),

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

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19-4(f)(6).