

rule change (SR-NYSE-99-40) is approved through February 26, 2000.¹²

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

Jonathan G. Katz,
Secretary.

[FR Doc. 99-31781 Filed 12-7-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42195; File No. SR-OCC-99-09]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend OCC's By-Laws and Rules To Merge the Currently Separated Equity and Non-Equity Elements of the OCC's Clearing Fund

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on September 24, 1999, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

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

The proposed rule change revises OCC's By-Laws and Rules to merge the equity and non-equity elements of the OCC's clearing fund into one clearing fund with contributions based on total margin requirements. The minimum contribution of the combined clearing fund will be \$150,000.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B),

and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to merge the currently separated equity and non-equity elements of the OCC's clearing fund, referred to in OCC's By-Laws and Rules as the "stock clearing fund" and the "non-equity securities clearing fund," into one combined clearing fund with contributions based on total margin requirements. The minimum contribution of the combined clearing fund will be \$150,000. The rule change also changes the language of Article VIII of the By-Laws and Chapter 10 of the Rules and attempts to conform the language of Article VIII, Section 5(a) more closely to that of Article VIII, Section 1, without changing the substance of those provisions.

OCC believes that for some time the division of the clearing fund into two elements has served no useful purpose. In 1982, when OCC first began clearing non-equity products, including treasury, currency, and stock index options, OCC instituted a separate non-equity element to the clearing fund to limit the impact of a member default in one product base, either equity or non-equity, on members trading only the other product base. The element of the clearing fund applicable to the product(s) involved in the default would be utilized first; only after that element was exhausted would the other element be used. Beginning in 1986, with the introduction of the Theoretical Intermarket Margin System ("TIMS") for non-equity products, some margin offsets were allowed between equity and non-equity products. Such offsets further expanded following the implementation of TIMS for equity products in 1991. The blurring of the distinction between equity and non-equity margin requirements and the integration of OCC's equity and non-equity systems in general, has reached a level such that clearing members only have a single margin requirement, which is used to determine the size of each element of the clearing fund each month.

According to OCC, almost all clearing members already contribute to both the equity and non-equity elements of the clearing fund and thus are subject to the \$75,000 minimum contribution for each element. For those members, a merger of the two elements into one combined

clearing fund would cause no aggregate change in the size of their clearing fund contribution. Five clearing members clear either only equity or only non-equity products and therefore contribute to only one element of the clearing fund. Three of these members, however, would not have their contributions affected by the proposed merger because their current activity puts their contributions well above the proposed \$150,000 minimum. Thus, the merger of the two elements into one clearing fund would not materially change the overall size of the clearing fund and would only have a minor impact on a small number of members.

Consistent with Article VIII, Section 2 of OCC's By-Laws, OCC will issue a memorandum to its clearing members at least five business days prior to the effective date of the rule change advising them of the change in the minimum contribution and advising them of their ability to withdraw from membership should they choose not to make the required clearing fund contribution.

OCC believes that the proposed rule change is consistent with Section 17A of the Act of promoting the prompt and accurate clearance and settlement of securities transactions because the rule change eliminates the unnecessary subdivision of the clearing fund.

(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 Act

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 such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

¹² The approval of the pilot should not be interpreted as suggesting that the Commission is predisposed to approving the proposal permanently.

¹³ 17 CFR 200.30-3(9)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by OCC.

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, N.W., Washington, D.C. 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, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-99-9 and should be submitted by December 29, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.³

Jonathan G. Katz,
Secretary.

[FR Doc. 99-31785 Filed 12-7-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42193; File No. SR-PCX-99-49]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Financial Reports and Related Notices (EDGAR Rule Filing)

December 1, 1999.

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 November 9, 1999, 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 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 PCX proposes to amend its Rule pertaining to Financial Reports to allow for materials filed with the SEC through the SEC's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system to be considered effectively filed with the Exchange. Below is the text of the proposed rule change.³ Rule 3.3(t)(1).

Commentary .04.

Material required to be filed pursuant to the Securities Exchange Act of 1934 will be considered as effectively filed with the Exchange upon filing such documents through the SEC's Electronic Data Gathering Analysis and Retrieval ("EDGAR") system, excepting Forms 8-Ks and proxy soliciting material.

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

PCX Rule 3.3(t)(1) requires that companies applying for listing on the PCX enter into agreements with the Exchange and become subject to its rules, regulations and policies applicable to listed companies. Pursuant to the listing agreement with the Exchange and the rules under the Act, each listed company is required to submit materials to be filed pursuant to the Act.⁴

³ New language is italicized.

⁴ Materials to be filed pursuant to the Act include Forms 8-K Current Report, 10-Q Quarterly Report, 10-K Annual Report, or other annual report forms for issuers using other than Form 10K; any proxy soliciting material; Forms 3 and 4, reports of the Company's officers, directors, and holders of more than 10% of the registered equity security; (one signed copy, except when a company having securities listed on another national securities

To relieve listed companies of the burden and costs of providing separate paper copies of their SEC filings to the Exchange, the Exchange proposes to amend its filing requirements so that a company that electronically files documents with the Commission will be deemed to have satisfied its comparable filing requirement with the PCX. Specifically, the Exchange now proposes that materials required to be filed pursuant to the Act, pursuant to PCX Rule 3.3(t)(1)(ii), except for Form 8-Ks and Preliminary Final Proxy Materials, be considered effectively filed with the Exchange upon filing such documents through the SEC's EDGAR system. The Exchange will continue to require that listed issuers manually file one copy of all Form 8-Ks and Preliminary Final Proxy Materials with the Exchange in order to be able to approximately monitor significant corporate events.

2. Basis

The Exchange believes that the proposal is consistent with Section 6(b)⁵ of the Act, in general, and Section 6(b)(5),⁶ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 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 were neither solicited nor received.

exchange has taken advantage of SEC Regulation 240.16a-1(c) and has designated another exchange as the only exchange with which such reports are to be filed. Designating an exchange may be accomplished by filing a letter with the Securities and Exchange Commission with a copy to each exchange on which the stock is listed); and Form 144, notice of proposed sale of restricted securities (this report need be filed under SEC Regulation 230.144(h) only with the principal exchange on which the securities are listed). See PCX Rule 3.3(t)(1)(ii).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(5).

³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.