

PCX understands that Amex and NASD also will file with the SEC similar proposed rule changes to delay until no later than November 30, 2005 the implementation date of the revisions to the Series 4 Examination.

2. Statutory Basis

PCX believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(1)¹¹ in particular, in that it is designed to enforce compliance by Options Trading Permit ("OTP") Holders and OTP Firms and persons associated with the rules of the Exchange.

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

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received by the Exchange on this proposal.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act¹² and Rule 19b-4(f)(1) thereunder,¹³ in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of PCX.

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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-PCX-2005-57 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-PCX-2005-57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-PCX-2005-57 and should be submitted on or before June 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51727; File No. SR-PCX-2005-51]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Revisions to the Series 4 Examination Program

May 24, 2005.

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 April 12, 2005, 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 PCX. PCX has designated the proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of PCX pursuant to section 19(b)(3)(A)(i) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Exchange filed Amendment No. 1 to the proposed rule change on May 16, 2005.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

Pursuant to the provisions of section 19(b)(1) of the Act,⁶ the Exchange is filing with the Commission revisions to the study outline and selection specifications for the Limited Principal—Registered Options (Series 4) examination ("Series 4 Examination").

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

⁵ In Amendment No. 1, PCX provided a new statutory basis for the proposed rule change and made technical corrections to the proposed rule change. PCX also included a copy of a Commission letter regarding procedures for filing qualification exams. See letter from Belinda Blaine, Associate Director, Division of Market Regulation Commission, to Alden S. Adkins, Senior Vice President & General Counsel, NASD Regulation, Inc., dated July 24, 2000. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on May 16, 2005, the date on which the Exchange filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

⁶ 15 U.S.C. 78(b)(1).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(1).

¹² 15 U.S.C. 78s(b)(3)(A)(i).

¹³ 17 CFR 240.19b-4(f)(1).

¹⁴ 17 CFR 200.30-3(a)(12).

The proposed revisions update the material to reflect changes to the laws, rules, and regulations covered by the Series 4 Examination. PCX is not proposing any textual changes to its rules.

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

In its filing with the Commission, 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 may be examined at the places specified in Item IV below. 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

Pursuant to section 6(c)(3) of the Act,⁷ which allows PCX to examine and verify the standards of training, experience, and competence for persons associated with PCX Options Trading Permit ("OTP") Holders or OTP Firms, PCX has developed examinations, and requires satisfaction of examinations developed by other self-regulatory organizations ("SROs"), that are designed to establish that persons associated with PCX OTP Holders or OTP Firms have attained specified levels of competence and knowledge. PCX periodically reviews the content of examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

PCX Rule 9.18 states that no OTP Firm or OTP Holder shall be approved to transact business with the public in options contracts, unless those persons associated with the OTP Firm or OTP Holder who are designated as Options Principals or who are designated as Registered Representatives have been approved by and registered with the Exchange. The Series 4 Examination, an industry-wide examination, qualifies an individual to function as an Options Principal. The Series 4 Examination tests a candidate's knowledge of options trading generally, the PCX's rules applicable to trading of options contracts, and the rules of registered clearing agencies for options. The Series

4 Examination covers, among other things, equity options, foreign currency options, index options, and options on government and mortgage-backed securities.

The Series 4 Examination is shared by PCX and the following SROs: The American Stock Exchange LLC, the Chicago Board Options Exchange, Incorporated, the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

A committee of industry representatives, together with the staff of PCX and the SROs referenced above, recently undertook a periodic review of the Series 4 Examination. As a result of this review and as part of an ongoing effort to align the Series 4 Examination more closely to the supervisory duties of a Series 4 principal, PCX is proposing to modify the content of the Series 4 Examination to track the functional workflow of a Series 4 principal. More specifically, PCX is proposing to revise the main section headings and the number of questions on each section of the Series 4 study outline as follows: Options Investment Strategies, decreased from 35 to 34 questions; Supervision of Sales Activities and Trading Practices, increased from 71 to 75 questions; and Supervision of Employees, Business Conduct and Recordkeeping and Reporting Requirements, decreased from 19 to 16 questions. PCX is further proposing revisions to the study outline to reflect the new Commission short sale requirements. The revised Series 4 Examination continues to cover the areas of knowledge required to supervise options activities.

PCX is proposing similar changes to the corresponding sections of the Series 4 Examination selection specifications and question bank. The number of questions on the Series 4 Examination will remain at 125, and candidates will have three hours to complete the exam. Also, each candidate must correctly answer 70 percent of the questions to receive a passing grade.

2. Statutory Basis

PCX believes that the proposed rule change is consistent with section 6(b) of the Act,⁸ in general, and furthers the objectives of section 6(b)(1)⁹ in particular, in that it is designed to enforce compliance by OTP Holders and OTP Firms and persons associated with the rules of the Exchange.

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.

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act¹⁰ and Rule 19b-(f)(1) thereunder,¹¹ in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of PCX.

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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-PCX-2005-51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-PCX-2005-51. This file number should be included on the subject line if e-mail is used. To help the

⁷ 15 U.S.C. 78f(c)(3).

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(1).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(i).

¹¹ 17 U.S.C. 240.19b-4(f)(1).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-PCX-2005-51 and should be submitted on or before June 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51731; File No. SR-Phlx-2005-02]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Volume Weighted Average Price Crosses

May 24, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹, and Rule 19b-4² thereunder, notice is hereby given that on January 25, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 Phlx. On May 4, 2005, the Phlx submitted Amendment No. 1 to the proposed rule

change,³ and on May 18, 2005, the Phlx submitted Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Phlx proposes to amend Phlx Rule 126, "Crossing" Orders, by adding new subsection (i) dealing with volume weighted average price ("VWAP") crosses. The text of amended Phlx Rule 126 is set forth below. New language is *italicized*.

Rule 126.

"Crossing" Orders

When a member has an order to buy and an order to sell the same security, he must offer such security at a price which is higher than his bid by the minimum variation permitted in such security before making a transaction with himself.

Supplementary Material

(a)-(h) No Change.
(i) *This section applies to the execution of certain transactions hereinafter referred to as VWAP crosses which are customer-to-customer crosses that are equal to any single market or consolidated market volume weighted average prices either for the entire trading day from 9:30 a.m. to 4 p.m., or for any portion of the trading day. VWAP crosses are not subject to the Exchange's auction market rules and thus, may not be broken-up upon entry to the Exchange. VWAP crosses must be identified as VWAP on each order ticket, entered by symbol and price, identified as 'agency' and, when applicable, identified as "short exempt". The basis upon which the VWAP is to be calculated (including the time of day in which the trades to be included in the VWAP formula must occur, and whether such trades are limited to those occurring on a particular market or include all trades on the consolidated market) must be documented upon receipt of the order. VWAP crosses may be executed only*

³ In Amendment No. 1, the Phlx (1) eliminated the concept of linking a VWAP cross to a "primary market" and instead proposed to link a VWAP cross to correspond to any single market, and (2) requested relief from the provisions of SEC Rule 11Ac1-1 under the Act (the "Quote Rule") with respect to VWAP crosses.

⁴ In Amendment No. 2, the Phlx (1) eliminated the proposed rule text addressing the treatment of VWAP crosses in the case of trading halts, (2) corrected a citing reference to Phlx auction market rules, and (3) clarified the description of the "b" modifier.

during the Exchange's Post Primary Session and reported with the identifier "b", to the nearest decimal eligible for reporting by the Exchange.

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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 Phlx included statements concerning the purpose of and basis for the proposed rule change, as amended, 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 Phlx 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 Exchange represents that the purpose of the proposed rule change is to permit certain customer-to-customer⁵ crosses to be executed at a VWAP⁶ during the Exchange's Post Primary Session.⁷ The new crossing transactions would be permitted to be executed at prices which are equal to any single market or consolidated market volume weighted average prices calculated for the entire trading day from 9:30 a.m. to 4 p.m., or for any portion of the trading

⁵ Pursuant to Phlx Rule 126(d) a "customer" order would include any order which a broker represents in an agency capacity, including any order of a market maker or other broker-dealer not affiliated with the broker, and it would not include any order of a broker-dealer affiliated with the executing broker, or any associated person of such broker-dealer.

⁶ The Commission has observed that the VWAP for a security is generally determined by: (1) Calculating raw values for regular session trades reported by the Consolidated Tape during the regular trading day by multiplying each such price by the total number of shares traded at that price; (2) compiling an aggregate sum by adding each calculated raw value from step one above; and (3) dividing the aggregate sum by the total number of reported shares for that day in the security. See Securities Exchange Act Release No. 48709 (Oct. 28, 2003), 68 FR 62972, 62982 at n. 88 (Nov. 6, 2003) (the Regulation SHO Proposing Release). Pursuant to the Exchange's proposed rule change, however, members would be able to elect to calculate a VWAP using only a single market's prices rather than all trades reported by the Consolidated Tape, and could elect to base that calculation on trades reported during a particular time slice during the day rather than including all trades reported during the regular trading day. Members would be required to document the particular trades they have agreed to be used in the calculation.

⁷ According to Phlx Rule 101, the Post Primary Session ("PPS") operates from 4 to 4:15 p.m.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.