

## V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-PCX-2005-123), is hereby approved on an accelerated basis.<sup>36</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>37</sup>

J. Lynn Taylor,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53249; File No. SR-PCX-2005-138]

### Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendments No. 1 and 2 Thereto To Amend the PCX's Rules Governing the Hours of Trading in Equity Options

February 7, 2006.

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 December 16, 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 and II below, which Items have been prepared by the PCX. On January 13, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Exchange filed Amendment No. 2 to the proposed rule change on January 31, 2006.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the amended proposal on an accelerated basis.

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

The PCX proposes to amend its hours of trading for equity options as set forth in PCX Rule 7.1 and to make a corresponding clarifying change to PCX Rule 6.24(g). The Exchange proposes

that these changes be implemented on February 13, 2006.<sup>5</sup> The text of the proposed rule change, as amended, is available on the PCX's Web site (<http://www.pacificex.com>), at the principal office of the PCX, and at the Commission's Public Reference Room.

#### 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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item III 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

According to the Exchange, the purpose of the proposed rule change, as amended, is to amend PCX Rule 7.1, Commentary .01 "Trading Sessions" to adjust the closing time for equity options trading on the PCX to 1 p.m. (Pacific time). In addition, the Exchange proposes to make a minor "housekeeping" change to PCX Rule 6.24(g) "Exercise of Options Contracts" so that the rule is consistent with the new closing time.<sup>6</sup> After the change becomes effective, the 1 p.m. (Pacific time) closing time for equity options will coincide with the closing time of the primary equity markets listing the stocks underlying PCX options. The primary exchanges generally close at 1 p.m. (Pacific time).

According to the Exchange, presently, listed options are traded on all options exchanges until 1:02 p.m. (Pacific time), while the underlying equities cease trading at 1 p.m. The extended time for

options trading, which was implemented prior to electronic order entry and execution, provided an opportunity for all orders that were entered during market hours, especially those entered near the close, to be properly represented and executed if possible. The extended time also allowed options traders to respond to late reports of closing prices of underlying issues over the consolidated tape. Due to technological advances in options trading, most orders are no longer manually handled or traded on the floor. Customers and Market Makers have the ability to transact business in an all-electronic fashion with sub-second processing. Even though orders can still be traded via open outcry on the floor, these orders are limited in number and do not create a processing problem, even when entered near to the end of the day. Therefore, the need to provide an extended period of time in order to accommodate any orders that were unable to be processed during normal trading hours is no longer necessary. In addition, improvements in the processing and reporting of transactions have all but eliminated delays in the reporting of closing prices of underlying issues. Consequently, the need to continue trading options, while waiting for the correct closing price from the primary market, is no longer necessary.

The Exchange notes that if it were to unilaterally modify its closing time, the existence of dissimilar closing times applicable to the different options exchanges would likely lead to confusion for options investors and broker-dealers. It is the PCX's understanding that all options exchanges will make similar changes to their rules to change the closing time in equity options from 1:02 p.m. to 1 p.m. (Pacific time).<sup>7</sup> The options exchanges collectively have determined that they would implement this new closing time on February 13, 2006.<sup>8</sup>

###### 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is

<sup>5</sup> *Id.*

<sup>6</sup> The Exchange also proposes to delete certain language contained in PCX Rule 7.1, Commentary .01 which addresses the specific categories of Market Makers that are eligible to effect trades through the facilities of the Exchange. According to PCX, its rules governing trading by Market Makers, and the explanations of which types of Market Makers are eligible to trade either on the Floor of the Exchange or through the facilities of the Exchange are included in PCX Rule 6.32(a) entitled "Market Makers Defined." The PCX believes that it is redundant to repeat this language in PCX Rule 7.1, and therefore proposes to delete it as part of this proposed rule change. See Amendment No. 1, *supra* note 3.

<sup>7</sup> The PCX notes that, although certain other exchanges are also proposing to change the closing time for narrow-based index options, the PCX's proposed rule change does not include a provision regarding narrow-based indexes. The Exchange represents that, at this time, the PCX does not trade options on narrow-based index products and does not have any plans to list options on narrow-based index products. PCX Rule 5.20(a) governs the closing time for transactions in index options. If in the future the PCX were to list options on narrow-based indexes, the PCX represents that it will, at that time, make any necessary changes to PCX Rule 5.20(a) regarding the closing time for options on narrow-based indexes. *Id.*

<sup>8</sup> See Amendment No. 2, *supra* note 4.

<sup>36</sup> 15 U.S.C. 78s(b)(2).

<sup>37</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 Amendment No. 1, the Exchange provided additional discussion to clarify its proposed rule change.

<sup>4</sup> In Amendment No. 2, the Exchange requested that the implementation date for the new closing time be changed from February 1, 2006, as was originally proposed, to February 13, 2006.

consistent with section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>10</sup> in particular, because it is 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 PCX does not believe that the proposed rule change, as amended, 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*

No written comments were solicited or received with respect to the proposed rule change, as amended.

### III. 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 at (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PCX-2005-138 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-PCX-2005-138. 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 in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the 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 File Number SR-PCX-2005-138 and should be submitted on or before March 8, 2006.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>11</sup> In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,<sup>12</sup> which requires, among other things, that the rules of a national securities 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.

The Commission notes that the Exchange believes that the need to continue trading options for some period of time after the close of trading in the underlying securities markets is no longer necessary because improvements in the processing and reporting of transactions have obviated the need to respond to late reports of closing prices over the consolidated tape in order to bring options quotes in line with the closing price of the underlying security. Because the two

minute delay between the close of normal trading in equity options and the corresponding underlying equity markets is no longer necessary, the Commission believes that eliminating the delay is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets. Therefore, the Commission finds that it is consistent with the Act for the Exchange to amend its rules to change the close of normal trading hours in equity options from 1:02 p.m. (Pacific time) to 1 p.m. (Pacific time).

The Commission finds good cause for approving this proposed rule change, as amended, before the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that all of the options exchanges have filed substantially similar proposals and seek to implement these industry-wide changes simultaneously on February 13, 2006.<sup>13</sup> For example, on December 20, 2005, the Commission published for comment in the **Federal Register** a similar proposed rule change submitted by the Chicago Board Options Exchange, Incorporated ("CBOE").<sup>14</sup> The Commission received no comments on the CBOE's proposed rule change. The Commission believes that the PCX's proposed rule change, as amended, raises no new issues or novel regulatory questions. Accordingly, the Commission finds good cause, pursuant to section 19(b)(2) of the Act,<sup>15</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after publication in the **Federal Register**. In addition, because the existence of dissimilar closing times among the options exchanges could lead to confusion for options investors and broker-dealers, the Commission finds good cause to accelerate approval of the proposed rule change, as amended, to enable the six options exchanges to simultaneously amend their hours of trading on an industry-wide basis in a uniform manner.<sup>16</sup>

<sup>13</sup> See note 16, *infra*.

<sup>14</sup> See Securities Exchange Act Release No. 52949 (December 13, 2005), 70 FR 75513 (December 20, 2005) (SR-CBOE-2005-104). See also Securities Exchange Act Release No. 53055 (January 5, 2006), 71 FR 2279 (January 13, 2006) (SR-ISE-2005-58).

<sup>15</sup> 15 U.S.C. 78s(b)(2).

<sup>16</sup> The Commission notes that it is simultaneously approving similar proposals from the other options exchanges. See Securities Exchange Act Release Nos. 53244 (SR-Amex-2006-003); 53245 (SR-BSE-2006-02); 53246 (SR-CBOE-2005-104); 52348 (SR-ISE-2005-58); and 53247 (SR-Phlx-2006-01) (February 7, 2006).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change and Amendments No. 1 and 2 thereto (SR-PCX-2005-138) be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**J. Lynn Taylor,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53247; File No. SR-Phlx-2006-01]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendments No. 1 and 2 Thereto To Amend the Phlx's Rules Governing the Hours of Trading in Equity Options and Narrow-Based Index Options

February 7, 2006.

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 January 4, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. On January 20, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Exchange filed Amendment No. 2 to the proposed rule change on January 31, 2006.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the amended proposal on an accelerated basis.

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

The Phlx proposes to amend Phlx Rules 101, 1012, 1047, 1047A and 1101A and Phlx Floor Procedure Advice ("OFPA") G-2 to indicate that equity options and narrow-based index options may trade until 4 p.m. and not 4:02 p.m. (e.s.t.). The Exchange proposes that these changes be implemented on February 13, 2006.<sup>5</sup> The text of the proposed rule change, as amended, is available on the Phlx's Web site (<http://www.phlx.com>), at the principal office of the Phlx, and at the Commission's Public Reference Room.

## 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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item III 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

According to the Exchange, the purpose of the proposed rule change, as amended, is to amend Phlx Rules governing the hours of trading in equity options and narrow-based index options. Specifically, the Phlx proposes to amend its rules to change the close of normal trading hours in equity options and in narrow-based (industry) index options from 4:02 p.m. to 4 p.m. (e.s.t.). After the change, the time of the close of trading in these Phlx options will correspond to the normal time set for the close of trading on the primary exchanges listing the stocks underlying the Phlx options. The primary exchanges generally close at 4 p.m. (e.s.t.).

The Exchange notes that, in 1997, the closing time for equity options and narrow-based index options was changed from 4:10 p.m. to 4:02 p.m. (e.s.t.). The rationale to continue trading options for some limited period of time after the close of trading on the primary markets for the underlying securities

was that the extended period allowed options traders to respond to late reports of closing prices over the consolidated tape. If the price of a late reported trade on an underlying security was substantially different from the previous reported price, the extended trading session would give options traders the opportunity to bring options quotes in line with the closing price of the underlying security.

However, because of improvements in the processing and reporting of transactions, the Phlx believes that there are no longer significant delays in the reporting of closing prices, and, therefore, a two minute session is no longer needed to trade options after the underlying securities close trading. Additionally, the Exchange believes that pricing aberrations can occur if an option is traded when the underlying stock is no longer trading, since there is a close relationship in the price of the underlying stock and the overlying option. As a result, the Phlx believes that it is difficult for the market to price options accurately when the underlying security is not trading.

At this time, the Exchange is not proposing to change the closing time of 4:15 p.m. (e.s.t.) for broad-based (market) index options because it does not believe that a significant news announcement by the issuer of one component stock of a broad-based index is likely to have a significant effect on the price of that broad-based index.<sup>6</sup> The Exchange recognizes, however, that indexes that are narrow-based may be subject to the same pricing problems as options on individual stocks<sup>7</sup> and, as noted above, proposes to change the relevant closing time to 4:00 p.m. (e.s.t.). Accordingly, the Phlx proposes to amend Phlx Rules 101, 1012, 1047, 1047A and 1101A and OFPA G-2 to change the references to times from 4:02 p.m. to 4 p.m. (e.s.t.) for equity options and certain index based options as described above.<sup>8</sup>

The Exchange notes that, if it or some but not all options exchanges were to unilaterally modify its closing time, the existence of dissimilar closing times applicable to the different options exchanges would likely lead to

<sup>6</sup> Nor is the Exchange proposing to change the closing time of 4:15 p.m. (e.s.t.) for Exchange-Traded Fund Share Options. However, the Exchange is proposing technical changes in the noted rules to clarify that options on Exchange-Traded Fund Shares and broad-based index options may trade until 4:15 p.m. (e.s.t.).

<sup>7</sup> According to the Exchange, a significant news announcement on one component of such an index could have a significant effect on the index.

<sup>8</sup> In addition, the Exchange notes that the reference to a 4:10 p.m. closing time in Phlx Rule 101 will similarly be changed to 4:00 p.m. (e.s.t.).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</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 Amendment No. 1, replacing the original filing in its entirety, the Exchange made clarifying changes to the proposed rule text and its discussion.

<sup>4</sup> In Amendment No. 2, the Exchange requested that the implementation date for the new closing time be changed from February 1, 2006, as was originally proposed, to February 13, 2006.

<sup>5</sup> *Id.*