

\* Fines in excess of \$5,000 will be deferred to the BCC.<sup>6</sup>

Some violations of CBOE Rule 11.1 with respect to American-style, cash-settled index options will not be resolved by summary fine. For example, violations that occur following the dissemination of significant news will not be resolved by way of summary fine. Additionally, violations where mitigating or aggravating circumstances are evident and it appears that a summary fine is inappropriate will be forwarded to the BCC.

## 2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>7</sup> in that it is designed to refine and enhance the Exchange's minor rule violation plan, thereby removing impediments to a free and open market and protecting 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 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

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the self-regulatory organization 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.

<sup>6</sup> Any fine imposed in excess of \$2,500 will be subject to reporting on SEC Form BD in addition to the immediate, rather than periodic, reporting requirement of Section 19(d)(1) of the Act. Compare Exchange Act Release No. 30280 (January 22, 1992), 57 FR 3452 (noting that fines in excess of \$2,500, assessed under New York Stock Exchange, Inc. Rule 476A, are not considered pursuant to the NYSE's minor rule violation plan and are thus subject to the current reporting requirements of Section 19(d)(1) of the Act).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

## 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. 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 Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-98-41 and should be submitted by November 19, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40590; File No. SR-PCX-98-49]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Specialist Post Fee Waiver Program Amendments

October 22, 1998.

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 September 24, 1998, as amended on October 13, 1998,<sup>3</sup> the Pacific Exchange,

<sup>8</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> See Letter from Michael Pierson, Senior Attorney, PCX, to Joshua Kans, Attorney, Division of Market Regulation, Commission, dated October 13, 1998 ("Amendment No. 1"). Amendment No. 1 eliminated a proposal to permit the Exchange's Executive Committee to determine whether to allow otherwise eligible specialists to participate in the Specialist Post Fee Waiver Program. Amendment

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 Exchange is proposing to modify its Specialist Post Fee Waiver Program ("Program") by adding a requirement that any participating firm must remain in the Program for a minimum of six months or forego the benefits it has received during its participation in the Program.

### 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 February 19, 1998, the Exchange's Specialist Post Fee Waiver Program became effective upon filing.<sup>4</sup> The Program is intended to provide financial incentives and short-term cost relief for specialist firms that are approved by the Exchange to operate specialist posts that will no longer be operated by another firm. Under the Program, if a specialist firm is approved to assume financial and operational responsibility for a specialist post, the specialist firm's fixed specialist fees are waived for three months. The Program also allows participating specialist firms to earn fee credits, based on monthly trading

No. 1 also clarified the scope of the rule change's future effect, and clarified the Exchange's justification for the rule change's immediate effectiveness.

<sup>4</sup> See Exchange Act Release No. 39745 (March 12, 1998), 63 FR 13440 (March 19, 1998) (notice of filing and immediate effectiveness of SR-PCX-98-11).

volumes, once the original three months have passed and the firm's fixed specialist fees have been reinstated. These fee credits, which are available for three months, are intended to serve as incentives for specialist firms to bring equity order flow to the Exchange.

The Exchange is proposing to modify the Program so that a specialist firm would need to maintain financial and operational responsibility for the new post for a minimum of six months in order to receive fee credits or fee waivers under the Program. This requirement is intended to assure that firms will not take on a new post for less than six months and then abandon it after having received the Program benefits. Accordingly if the Exchange approves a firm for participation in the Program, and the firm abandons the post before six months have passed, the firm will be obligated to pay the fixed specialist fees that otherwise would have applied while the firm was responsible for the post.

The Exchange notes that the terms of this rule filing will only apply to specialist firms that provide new backing to a specialist post under the Program after the effective date of this rule filing.

#### (2) Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange also believes that the proposal is consistent with Section 6(b)(4) of the Act<sup>7</sup> in that it is designed to provide for the equitable allocation of dues, fees and other charges among its members.

#### *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 foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>8</sup> and subparagraph (e)(2) of Rule 19b-4 thereunder<sup>9</sup> because it is establishing or changing a due, fee or other charge. At any time within 60 days of the filing of such 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 is consistent with the Act.<sup>10</sup> Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-98-49 and should be submitted by November 19, 1998.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 40593; File No. SR-PHLX-98-37]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Stopping Stock**

October 22, 1998.

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 September 28, 1998, the Philadelphia Stock Exchange Inc. ("PHLX" 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 adopt Rule 220, Stopping Stock, which would define agreements to stop stock; establish the obligations of a member who agrees to stop stock; set forth market conditions under which a stop should be granted; establish a policy for executing stopped stock, including the price at which the order should be executed; and establish policies and procedures for execution of stop orders in minimum variation markets that are consistent with the rules of parity, priority and precedence. In addition, the Exchange proposes to amend Equity Floor Procedure Advice A-2 ("Advice A-2") regarding stopped stock, in order to include reference to proposed Rule 220.

The text of the proposed rule change is available at the Office of the Secretary, PHLX and at the Commission.

#### **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

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(e)(2).

<sup>10</sup> In reviewing these rules, the Commission has considered the proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

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