

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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-06 and should be submitted by June 1, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41354; File No. SR-NYSE-99-16]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Revisions to the Exchange's Floor Conduct and Safety Guidelines

April 30, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934<sup>1</sup> ("Act"), and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 21, 1999, the New York Stock Exchange, Inc. ("NYSE" 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 Exchange. The Exchange has designed this proposal as one which is concerned solely with the administration of the Exchange under Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal

effective upon filing with the Commission. 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 amend its Floor Conduct and Safety Guidelines ("Guidelines") to require terminated or transferred Floor employees or members to surrender their Exchange-issued identification card ("Floor badge") to the Exchange's Security Office within five business days of termination. In addition, the proposed rule would require that members and member organizations notify the Security Office of a member's or Floor employee's termination within 24 hours of the termination. The text of the proposed rule change is available at the Exchange 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 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 purpose of the Guidelines is to ensure that the behavior and practices of individuals on the Floor of the Exchange contribute to the efficient, uninterrupted conduct of business on the Floor and do not jeopardize the safety or welfare of others.

Exchange rules require all members and Floor employees of members and member organizations to be registered with, and qualified and approved by, the Exchange. When entering and while on the Floor, members and Floor employees of members and member organizations must display their Floor badge at all times.

Currently, Exchange policy requires that the Floor badges of terminated employees must be surrendered to the Exchange's Security Office or to the

Exchange's Floor Operations Support Department within five business days of termination of employment.

To ensure that only authorized members and Floor employees may gain access to the Floor (thereby strengthening overall security), the Guidelines will be revised to require that members and member organizations:

- Notify the Security Office of a member's or Floor employee's termination within 24 hours of the termination, and
- Submit the terminated member's or Floor employee's badge to the Security Office within five business days of termination.

The Guidelines will incorporate the requirement for 24-hour notice to and submission of Floor badges directly to the Security Office, with no option to submit badges to the Floor Operations Support Department.

The required 24-hour notification to the Security Office will enable Security staff to deactivate Floor badges electronically, immediately upon notification and prior to the badges actually being surrendered, thereby barring access to the Floor by terminated persons.

Members and member organizations who reassign members or Floor employees to non-Floor functions will be subject to this policy concerning surrender of the Floor badges. In addition to enhancing Floor security, this policy will provide a centralized and more efficient means for accountability of Floor badges.

Failure by members and member organizations to adhere to these Guidelines may result in the imposition of fines (in the amount of \$1000) in accordance with the Guidelines.

These proposed revisions to the Guidelines do not affect the existing structure of fines, penalties, and disciplinary actions contained in the Guidelines; nor do they affect the rights of members, member organizations and Floor employees of members and member organizations to appeal, pursuant to existing Exchange rules and procedures, any penalties that are imposed under the Guidelines.

###### 2. Statutory Basis

The proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act<sup>5</sup> which requires that the rules of the Exchange be designed to facilitate transactions in securities and remove impediments to and perfect the mechanism of a free and open market. The proposed rule change

<sup>1</sup> 17 CFR 200.30-3(a)(12).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(3).

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

supports these goals by promoting the efficient, undisrupted conduct of business on the Floor.

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

The Exchange believes the proposed rule change will not 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*

Comments were neither solicited nor received.

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

The proposed rule change is concerned solely with the administration of the Exchange, and as such, takes effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>6</sup> and Rule 19b-4(f)(3) thereunder.<sup>7</sup> 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.<sup>8</sup>

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 Room. Copies of such filing will also be available for inspection and copying at

the principal office of the NYSE. All submissions should refer to file number SR-NYSE-99-16, and should be submitted by June 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41353; File No. SR-PCX-98-62]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Differential Index Options**

April 30, 1999.

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 18, 1998, 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 self-regulatory organization. The Exchange filed with the Commission Amendments No. 1<sup>3</sup> and 2<sup>4</sup> to the proposed rule change on

<sup>9</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 to Michael A. Walinskas, Division of Market Regulation, Commission, from Robert P. Pacileo, PCX, dated April 7, 1999 ("Amendment No. 1"). Amendment No. 1 makes certain technical changes to the proposed rule change. Amendment No. 1 also specifies the procedures the Exchange will follow if an underlying differential index previously approved for options trading does not meet the Exchange's requirements for continued approval. In addition, Amendment No. 1 clarifies the conditions under which Exchange Rule 6.11, relating to restrictions on Exchange options transactions and exercises, will be applicable to Differential Index Options.

<sup>4</sup> See Letter to Michael A. Walinskas, Division of Market Regulation, Commission, from Robert P. Pacileo, PCX, dated April 7, 1999 ("Amendment No. 2"). Amendment No. 2 provides information as to what the Exchange will do to make adjustments in value for differential index options contracts when certain corporate events take place in the case of Equity Differential and Paired Stock Differential options, or when significant action has been taken by the publisher of an index in the case of Index Differential options. Amendment No. 2 also specifies that if the Exchange chooses as either a designated or benchmark index an index that has been approved for index warrant trading only, to establish the appropriate position limit the Exchange will (i) use the procedures set forth in its narrow-based index options rules with respect to differential options using a narrow-based index warrant and (ii) consult with the Commission with

April 8, 1999. 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 Exchange is proposing to trade a standardized index option, the Differential Index Option, whose value at expiration will be based on the relative performance of either a designated index versus a benchmark index, a designated stock versus a benchmark index, or a designated stock versus a benchmark stock.

#### **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 self-regulatory organization 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 self-regulatory organization 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**

Proposal. The Exchange is proposing to trade a new type of standardized index option, the Differential Index Option, that will offer new investment and hedging opportunities.<sup>5</sup> Differential Index Options will have a value at expiration based on an index, called the "differential index," that measures the relative performance of (1) A designated index versus a benchmark index over a specific time period ("Index Differential Option"); (2) a designated stock versus a benchmark index over a specific time period ("Equity Differential Option"); or (3) a designated stock versus a benchmark stock over a specific period of time ("Paired Stock Differential Option"). If the percent gain in the level

respect to differential options using a broad-based index warrant. Furthermore, Amendment No. 2 indicates the Exchange's intent to trade flexible exchange-traded options on Differential index options and provides the proposed rule language governing these options.

<sup>5</sup> The proposal is similar to filings of the American Stock Exchange and the Chicago Board Options Exchange, Inc. See Exchange Act Release No. 40537 (October 8, 1998), 63 FR 56052 (October 20, 1998); SR-CBOE-98-50.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-4(f)(3).

<sup>8</sup> In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).