

open market and to protect investors and the public interest.

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

The CBOE does not believe that the proposed Regulatory Circular interpretation of Exchange Rule 9.21 will impose any burden on competition.

#### *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 Regulatory Circular interpretation of Exchange Rule 9.21.

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

Within 35 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 90 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 the self-regulatory organization 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.

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

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 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-00-18 and should be submitted by June 22, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-42822; File No. SR-PCX-00-10]

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the PCX Application's Mid-Point Price Profile**

May 24, 2000.

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 March 26, 2000, the Pacific Exchange, Inc. ("Exchange" or "PCX"), filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"). The proposed rule change is 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 filing a proposed rule change to modify the definition of the term "Orders" under Exchange Rule 15.1(f) of its Rules of the Board of Governors, as such term is used for purposes of the PCX Application of the OptiMark System ("PCX Application"), and to add Commentary .04 to Rule 5.3, Rules of the Board of Governors, Equities Trading, Trading Differentials, to provide for separate minimum trading differentials for certain profiles in the PCX Application. The proposed rule change would permit certain PCX Application Profiles to receive an execution under specified circumstances at price increments finer than the minimum trading differential permitted under the Exchange's rules for other transactions on the Exchange. The text of the proposed rule change is available at the Exchange and at the Commission.

<sup>5</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.

#### **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 September 17, 1997, the Commission approved the PCX Application.<sup>3</sup> The PCX Application is a computerized, screen-based trading service for use by Exchange members and their customers to purchase or sell equity securities listed or traded on the Exchange ("PCX Securities"). The PCX Application is a supplement to the Exchange's traditional floor facilities and allows PCX members and their customers to submit expressions of trading interest known as "Profiles" anonymously from their computer terminal. As stated in the Approval Order, Profiles do not constitute "bids" or "offers" within the meaning of Exchange Act Rule 11Ac1-1, the "Firm Quote Rule." Rather, each Profile "is only a generalized expression of interest with conditions attached and is not eligible for execution until the completion of the Cycle."<sup>4</sup>

The PCX Application includes several types of Profiles where price can be pegged to reflect changes in a specific market parameter. The midpoint price ("MP") Profile is a type of pegged Profile. An MP Profile allows a user to enter a Profile to be priced at the midpoint of the national best bid or offer ("NBBO") posted on the consolidated Quotation System ("CQS") at the time of a matching cycle of the PCX Application. The MP feature will automatically update the price of any buy or sell Profile designated by the user of the PCX Application to conform to the midpoint of the NBBO displayed on CQS. All Profiles, other than the CQS

<sup>3</sup> See Securities Exchange Act Release No. 39086 (September 17, 1997), 62 FR 50036 (September 24, 1997) (SR-PCX-97-18) ("Approval Order"). The PCX Application has been in operation on the Exchange since January 1999.

<sup>4</sup> *Id.* at 50046.

Profiles and those Profiles created from the PCX Specialist's book, are eligible to be designated as an MP Profile.

The tracking of the relevant CQS information for MP Profiles occurs on a real-time basis in a dynamic fashion, such that the price of each designated MP Profile, irrespective of the NBBO when it was entered, is based on most current available NBBO. For example, if the matching cycle of the PCX Application (known as a "Call") for a particular PCX Security is scheduled to take place at 11:30 a.m. Eastern time, the price of each MP Profile will be updated to reflect the midpoint between the consolidated best bid and offer prices immediately prior to commencement of the Call at 11:30. From a functional standpoint, it would be as if the user of the PCX Application had entered a Profile at that instant with the associated price equal to the midpoint of the NBBO. Accordingly, all MP Profiles receive a new entry time at the beginning of each matching cycle in which they are included.<sup>5</sup> Of course, all Profiles received by the OptiMark System, whether or not designated as MP, will be centrally processed based on a computer algorithm. As specified in Exchange Rule 15.3(c), eligible coordinates from such buy and sell Profiles will be matched based on the stated principles of priority, and Profiles so matched will result in orders capable of immediate execution.<sup>6</sup>

The Exchange proposes to modify its rules so that an MP Profile can be executed at a trading differential finer than permitted under Exchange rules. Currently, the Exchange's minimum price variation is  $\frac{1}{16}$  ("teenie"). Over the course of the first year of operation of the PCX Application, OptiMark and the Exchange have become aware of a limitation affecting MP Profiles when the NBBO in a matching cycle is an odd teenie or a single teenie. As described above, an MP Profile should be priced at the midpoint of the NBBO. For an even teenie spread of  $\frac{1}{8}$  or greater, the midpoint can be determined precisely (e.g., the midpoint of an NBBO of \$20-\$20 $\frac{1}{8}$  is \$20 $\frac{1}{16}$ ). Midpoint pricing is more difficult for an odd teenie spread because the true midpoint can only be expressed in one thirty seconds. For example, the midpoint of an NBBO of \$20-\$20 $\frac{3}{16}$  is \$20 $\frac{3}{32}$ . Because the

Exchange's minimum trading differential is  $\frac{1}{16}$ , a true midpoint cannot be achieved. Thus, OptiMark would effect a match between buy and sell MP Profiles at either \$20 $\frac{1}{8}$  or \$20 $\frac{1}{16}$ , depending upon whether the buy or sell Profile had time priority. A similar problem arises when the NBBO is  $\frac{1}{16}$  because the true midpoint can only be expressed in one thirty seconds (e.g., an NBBO of \$20-\$20 $\frac{1}{16}$ ). In this situation, OptiMark will not effect a match of MP Profiles.

Institutional customers of OptiMark have asked the Exchange to revise the midpoint pricing feature so that a real midpoint trade can take place in odd teenie markets and  $\frac{1}{16}$  markets.<sup>7</sup> To achieve this, the Exchange proposes to allow executions of MP Profiles to take place in the PCX Applications at finer trading differentials than  $\frac{1}{16}$ . Thus, the Exchange proposes to amend its Rules to allow an MP Profile to be executed at a price increment as small as  $\frac{1}{64}$  or, upon conversion to decimal pricing, to one half of the minimum price variation.<sup>8</sup>

Exchange Rule 5.3(b) provides the Exchange with the authority to determine the trading increments for equity securities traded on the Exchange by filing a proposed rule change with the Commission pursuant to Section 19(b)(3)(A) of the Act.<sup>9</sup> The PCX believes that a trading differential of  $\frac{1}{64}$  is appropriate for MP Profiles so that a true midpoint trade can be effected in the PCX Application. The PCX notes that several other exchanges operate auxiliary matching systems that price in finer increments than available in regular trading.<sup>10</sup> The Exchange believes that a finer trading differential for executions of MP Profiles will facilitate enhanced Profile interaction at prices consistent with the continued movement in the industry to reduce the

minimum trading increment. This is a value-added service that has been requested by many customers and supported by PCX members in discussions with PCX staff and OptiMark personnel.

The Exchange notes that all transactions resulting from midpoint pricing will be identified with a special sale condition so that members, public investors and others can distinguish such trades from other trade reports executed on the Exchange.<sup>11</sup> It is important to note that these new finer price increments apply only to executed trades and not to the entry of Profiles or to publish bids and offers. In other words, trades resulting from the MP service may be executed on the basis of  $\frac{1}{64}$  increments; however, it will still not be possible to enter Profiles, bids, or offers in  $\frac{1}{64}$  increments.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the provisions of Section 6(b)(5) of the Act<sup>12</sup> in that the PCX Application is a facility that is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, or dealers. In addition, the Exchange believes that the proposed rule change is consistent with provisions of Section 11A(a)(1)(B) of the Act,<sup>13</sup> which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations.

### 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.

<sup>11</sup> The Exchange confirmed with the Securities Industry Automation Corporation ("SIAC") that it is feasible to report through the Consolidated Trade System ("CTS") any transactions resulting from midpoint pricing in price increments as small as  $\frac{1}{64}$  of a dollar, and that such transactions will be reported to CTS with the sale condition "B" to indicate midpoint pricing. Telephone conversation between Brian P. Faughnan, Managing Director, MDS/NMS Planning and CTS/CQS Development, SIAC, and David DiCenso, Director, Equity Operations, PCX on March 21, 2000.

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

<sup>13</sup> 15 U.S.C. 78k-1(a)(1)(B).

<sup>7</sup> Customers that use indexation strategies or are passive investors are particularly interested in using the midpoint pricing feature.

<sup>8</sup> Under Exchange Rule 5.3(b), most PCX Securities trade in minimum increments of  $\frac{1}{16}$  of a dollar. In 1998, the Commission approved the Exchange's proposal to permit trading on the Exchange Floor at increments of  $\frac{1}{32}$  or  $\frac{1}{64}$  in order to match bids and offers displayed by other markets for the purpose of preventing Intermarket Trading System trade-throughs. See Securities Exchange Act Release No. 40199 (July 14, 1998), 63 FR 39366 (July 22, 1998) (SR-PCX-97-46).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> For example, the Philadelphia Stock Exchange ("Phlx") operates a VWAP matching system which report trades in fractions rounded to the nearest  $\frac{1}{256}$ . See Securities Exchange Act Release No. 41210 (March 24, 1999), 64 FR 15847 (April 1, 1999) (SR-PHLX-96-14). The Commission also approved a modified trading variation for the Chicago Match System. See Securities Exchange Act Release No. 35030 (November 30, 1994), 59 FR 63141 (December 7, 1994).

<sup>5</sup> The Exchange has represented that OptiMark will make information on the operation of the MP Profile available to users of the PCX Application.

<sup>6</sup> All MP Profiles in a matching cycle on the same side of the market are prioritized according to time of entry of the Profile into the PCX Application. After a cycle, all unexecuted MP Profiles that are not cancelled are automatically entered into the next matching cycle at the beginning of the cycle.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change constitutes a stated policy, practice or interpretation of Exchange Rule 5.3(b) and therefore, has become immediately effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and subparagraph (f)(1) of Rule 19b-4 thereunder.<sup>15</sup> The Commission further notes that Commentary .01 of the Exchange's rules states that the Exchange may change the trading differentials for securities traded on the Exchange by filing a proposed rule change with the Commission pursuant to Section 19(b)(3)(A) of the Act.<sup>16</sup> This proposed rule change would change the trading differentials for the PCX Application, which constitutes trading on the Exchange. The language changes to Rule 5.3(b) and Rule 15 merely effectuate this change in trading differentials for Profile sin the PCX Application.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the 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. 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 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-PCX-00-10 and should be submitted by June 22, 2000.<sup>17</sup>

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. 34-42814; File No. SR-Phlx-00-11]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Reduce the Value of Its Computer Box Maker Index Option ("BMX")**

May 23, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 31, 2000, 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 proposed rule change has been filed by the Phlx as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.<sup>3</sup> 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 reduce the value of its Computer Box Maker Index ("Index") option ("BMX") to one-half its present value by doubling the base market divisor used to calculate the index. Additionally, the Exchange proposes to double the position and exercise limits applicable to BMX until the last expiration then trading. The

index is a price weighted, narrow-based, A.M. settled index comprised of nine stocks issued by companies that manufacture, market, and support desktop and notebook personal computers and fault tolerant systems.<sup>4</sup>

**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 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 purpose of this proposed rule change is to attract additional liquidity to BMX. The Exchange began trading BMX in 1998.<sup>5</sup> On March 31, 2000, the index value was 451.24 and the near-month in-the-money call premium was \$35.125 per contract. The Exchange proposes to conduct a "two-for-one split" of the index, to reduce the value of index to one-half its current value. The split would double the number of BMX contracts so that for each BMX contract held at the time of the split, a contract holder would receive two contracts at the reduced value, with a strike price one-half of the original strike price.<sup>6</sup> Additionally, the Exchange proposes to double the position and exercise limits applicable to BMX, from 25,000 contracts to 50,000 contracts, until the last expiration then trading. The Exchange represents that the proposed changes would result in an index value of 225.50 and a near-month in-the-money call premium of \$17.56.<sup>7</sup>

<sup>4</sup> The index is comprised of the following stocks (primary markets in parentheses): Apple Computer, Inc. (Nasdaq); Compaq Corp. (NYSE); Dell Computer Corp. (Nasdaq); Gateway 2000, Inc. (NYSE); Hewlett Packard Co. (NYSE); International Business Machines (NYSE); Micron Technology, Inc. (NYSE); Sun Microsystems, Inc. (Nasdaq); and Unisys Corp. (NYSE).

<sup>5</sup> See Securities Exchange Act Release No. 39895 (April 21, 1998), 63 FR 23327 (April 28, 1998).

<sup>6</sup> For instance, the holder of a BMX 800 call will receive two BMX 400 calls.

<sup>7</sup> The Exchange represents that this procedure is similar to the type used for equity options, where the underlying security is subject to a two-for-one stock split.

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(1).

<sup>16</sup> See Securities Exchange Act Release No. 38780 (June 26, 1997), 62 FR 36087 (July 3, 1997)(SR-PCX-97-15).

<sup>17</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> 17 CFR 240.19b-4(f)(6).