

rule change. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.<sup>2</sup>

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

Prior to this rule change, Rule 4, section 1 of NSCC's Rules and Procedures stated that NSCC, in its discretion, could permit part of a participant's clearing fund deposit to be evidenced by an open account indebtedness secured by "bearer" bonds. This proposed rule change eliminates the reference to "bearer" bonds because bearer bonds have not been issued for some time now and consequently are not eligible for deposit with NSCC.

NSCC believes that the proposed rule change is consistent with the provisions of section 17A of the Act<sup>3</sup> and the rules and regulations thereunder because it makes a technical change to NSCC's rules to properly reflect the type of bonds eligible for clearing fund purposes and because it constitutes a stated practice with respect to the administration and enforcement of an existing rule.

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

NSCC does not believe that the proposed rule change will have an impact on or impose a 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 relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

**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)(iii) of the Act<sup>4</sup> and of Securities Exchange Act Rule 19b-4(f)(4)<sup>5</sup> because the proposed rule change effects a change in an existing service that does not adversely affect the safeguarding of securities or funds in NSCC's custody or control and does not significantly affect the respective rights

or obligations of NSCC or the persons using the service. At any time within sixty days of the filing of such 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549-0069. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-NSCC-2003-06. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing 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 in Washington, DC. Copies of such filing will also be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR-NSCC-2003-06 and should be submitted May 29, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-11446 Filed 5-7-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47786; File No. SR-PCX-2003-08]

**Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Exchange, Inc., Relating to a One-Year Pilot for Options Intermarket Linkage Fees**

May 2, 2003.

On March 11, 2003, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend its fee structure to clarify which fees apply to trades pertaining to the options intermarket linkage ("Linkage") and to specify that such fees are for a one-year pilot. On March 21, 2003, PCX submitted Amendment No. 1 to the proposed rule change.<sup>3</sup>

The Commission published the amended proposal for comment in the **Federal Register** on March 28, 2003.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposal rule change, as amended.

Two PCX fees would apply to Linkage trades other than satisfaction orders: A per transaction per contract side fee of \$.21; and a \$.05 comparison fee. Each of these Linkage-related fees would be implemented as a one-year pilot, expiring on January 31, 2004.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>5</sup> and, in particular, the requirements of section 6 of the Act.<sup>6</sup> The Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>7</sup> which requires that the rules of an exchange provide equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Commission

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

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

<sup>3</sup> See letter from Mai Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated March 18, 2003 ("Amendment No. 1").

<sup>4</sup> See Securities Exchange Act Release No. 47560 (March 21, 2003), 68 FR 15257.

<sup>5</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f.

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>3</sup> 15 U.S.C. 78q-1.

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

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

<sup>6</sup> 17 CFR 200.30-3(a)(12).

believes the one-year pilot will give the Exchange and the Commission the opportunity to evaluate whether these fees are appropriate.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change, as amended, is approved on a pilot basis until January 31, 2004.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-11442 Filed 5-7-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47785; File No. SR-Phlx-2003-24]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Its Rules Regarding the Calculation of Record Dates, Ex-Dividend Dates and Ex-Rights Dates

May 2, 2003.

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 April 11, 2003, 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, II and III below, which Items have been prepared by the Phlx. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 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 amend Phlx Rule 817 ("Record Date"), Phlx Rule 825 ("Ex-dividend Procedure"), Phlx Rule 826 ("Ex-rights Procedure") and Phlx Rule 831 ("Special Ex-dividend Rulings"). The proposed amendments are intended by the Exchange to update several archaic rules

that specify how record dates, ex-dividend dates and ex-rights dates are calculated. Below is the text of the proposed rule change. Proposed deleted text is [bracketed].

\* \* \* \* \*

#### Rule 817. Record Date

Rule 817. A company is not permitted to close its stock transfer books for any reason, including the declaration of a dividend. Rather, it must establish a record date for shareholders entitled to a dividend which is at least ten days after the date on which the dividend is declared (declaration date).

[However, in the case of stock issues that do not have transfer facilities in the Philadelphia metropolitan area, the record date shall not be less than such number of additional days (in excess of ten) after the declaration date as is equal to the mailing time (regular mail) between Philadelphia and the city in which the Transfer Agent is located. The requirement for additional time between the declaration date and the record date would also apply in cases where there is an intervening holiday or where the record date falls on a weekend.]

A company is also required to give the Exchange at least ten days notice in advance of a record date established for any other purpose, including meetings of shareholders.

\* \* \* \* \*

#### Rule 825. Ex-Dividend Procedure

Rule 825. [In the establishment and announcement of ex-dividend dates, the Exchange proceeds as follows:

(a) The "ex-dividend" date established by the Exchange is based on the location of the transfer facilities either in, or nearest to, Philadelphia. Thus, if an issue transfers both in Philadelphia and outside of Philadelphia the "ex" date is based on the Philadelphia transfer facilities. If an issue does not transfer in Philadelphia, but transfers in two or more cities outside of that area, the "ex" date is based on the location of the transfer facilities closest to Philadelphia.

(b) Transfer Facilities Located in Philadelphia—[Transactions in stocks (except those made for "cash") [for which there exists transfer facilities in Philadelphia] are ex-dividend on the second business day preceding the record date. If the record date selected is not a business day, the stock will be quoted ex-dividend on the third preceding business day. "Cash" transactions are ex-dividend on the business day following the record date.

[(c) Transfer Facilities Located Outside Philadelphia—The Exchange

will establish an "Ex-dividend" date for those stocks with transfer facilities only outside Philadelphia predicated on a theoretical "equivalent Philadelphia record date". The equivalent Philadelphia record date is the last business day on which securities may be mailed in Philadelphia and reach the out-of-town transfer office, by regular mail, in time to effect transfer by the record date. "Regular way" transactions in these stocks are ex-dividend on the second business day preceding the equivalent Philadelphia record date. Transactions in such stocks made for "cash" are ex-dividend on the business day following such equivalent Philadelphia record date.

(d) To avoid unnecessary claims for dividends, members receiving deliveries of stocks against "dividend on" transactions are urged to provide for the earliest mailing of such stocks which transfer out of town, in order to ensure receipt by the transfer agent by the record date.]

\* \* \* \* \*

#### Rule 826. Ex-Rights Procedure

Rule 826. In the establishment and announcement of ex-rights dates, the Exchange proceeds as follows:

Subscription Price Established—Where the Subscription price and all other terms of the rights and subscription offering are established sufficiently in advance of the record date to determine the value of the rights (and the registration statement relating to the offering has been declared effective by the SEC sufficiently in advance of the record date), transactions in stocks to which the rights pertain are quoted ex-rights in a manner similar to that described in Rule 825 above.

Subscription Price Not Known—Where the subscription price and all other terms of the rights and subscription offering are not known sufficiently in advance of the record date to determine the value of the rights, the Exchange will rule the stock ex-rights on the day following the date the rights commence trading (which, in most instances, is a date subsequent to the record date for the subscription offering).

Under such circumstances, the Exchange requires that all deliveries of stock made after the record date [(or "equivalent Philadelphia record date", where appropriate)] in settlement of transactions made prior to the ex-rights date, and on a "rights on" basis carry "due bills" for the rights.

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<sup>8</sup> 15 U.S.C. 78s(b)(2).

<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> 17 CFR 240.19b(f)(6).