

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52986; File No. SR-PCX-2005-137)

December 20, 2005

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Expand its \$2.50 Strike Price Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 14, 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 PCX. On December 16, 2005, PCX filed Amendment No. 1 to the proposed rule change.³ The Exchange has filed the proposal as a “non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(6) thereunder,⁵ which renders it effective upon filing with the Commission. 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

PCX proposes to amend PCX Rule 6.4 Commentary .03 governing the listing of options with strike price intervals of \$2.50. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in [brackets].

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 corrected an omission in the proposed rule text.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

Rule 6.4. Series of Options Open for Trading

(a) - (e) - No change.

Commentary .01 - .02 - No change.

.03 The Exchange may select [a limited number]up to 43 classes of its listed options on individual stocks or Exchange-Traded Fund Shares for which the interval of strike prices will be \$2.50 where the strike price is greater than \$25 but less than [~~\$50.~~] \$75. The Exchange will list \$2.50 strikes prices between \$50 and \$75 provided the \$2.50 strike prices between \$50 and \$75 are no more than \$10 from the closing price of the underlying stock on its primary market on the preceding day. In addition to those options selected by the Exchange, the strike price interval may be \$2.50 in any multiply traded option once another exchange trading that option selects such options. An option class shall remain in the \$2.50 Strike Price Program until otherwise designated by the Exchange and a decertification notice is sent to the Options Clearing Corporation.

.04 - .07 - No change.

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

In its filing with the Commission, PCX 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

PCX proposes to amend PCX Rule 6.4 Commentary .03 to allow the listing of options with \$2.50 strike price intervals for options with strike prices between \$50 and \$75 on those option classes that have been selected as part of the \$2.50 Strike Price Program ("Program"). PCX proposes to list options with \$2.50 strike price intervals above \$50 only if the new strike price is within \$10 of the closing price of the underlying security on the previous trading day.

Under the Program, initially adopted in 1995 as a joint program of the options exchanges, exchanges were permitted to list options with \$2.50 strikes price intervals up to \$50 on a total of 100 option classes.⁶ The Program was later expanded and permanently approved in 1998 to allow the exchanges collectively to select up to 200 issues on which to list options with \$2.50 strike price intervals up to \$50.⁷ Of the 200 available issues, PCX has been allocated 43 issues. This proposal does not increase the number of issues that the PCX will be allocated under the Program. In addition to an allocation from the 200 issues, each exchange is also permitted to list options with \$2.50 strike price intervals on any option class that another exchange selects as part of its Program. In addition, the Exchange proposes to amend PCX Rule 6.4 Commentary .03 to note that an option class shall remain in the Program until otherwise designated by the Exchange and a decertification notice is sent to the Options Clearing Corporation.

⁶ See Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (approving File Nos. SR-Phlx-95-08, SR-Amex-95-12, SR-PSE-95-07, SR-CBOE-95-19, and SR-NYSE-95-12).

⁷ See Securities Exchange Act Release No. 40662 (November 12, 1998), 63 FR 64297 (November 19, 1998) (approving File Nos. SR-Amex-98-21, SR-CBOE-98-29, SR-PCX-98-31, and SR-Phlx-98-26).

PCX believes that the experiences over the past ten years of listing options series with strike prices at \$2.50 intervals up to \$50 have produced positive results.⁸ Specifically, this has stimulated customer interest by creating additional trading opportunities, by creating more flexibility in trading decisions, and by affording customers the ability to more closely tailor investment strategies to the precise movement of the underlying security. The proposal to expand the listing of options with \$2.50 strike price intervals is intended to provide customers with greater flexibility in their investment choices for those stocks priced between \$50 and \$75. PCX represents that Options Price Reporting Authority has the capacity to accommodate the increase of series added pursuant to this rule change.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objective of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade, 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 Exchange does not believe that the proposed rule change will impose any burden on competition 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

⁸ Telephone conversation between Glenn Gsell, Director, Regulation, PCX, and Theodore S. Venuti, Attorney, Division of Market Regulation, Commission, on December 20, 2005.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

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

Because the forgoing rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹³ However, Rule 19b-4(f)(6)(iii)¹⁴ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.¹⁵ The Exchange has requested that the Commission waive the 30-day pre-operative delay, and the Commission hereby grants that request.¹⁶ The Commission believes that waiving the 30-day pre-operative delay is consistent with the protection of investors and in the public interest. This action will allow the Exchange to immediately expand its Program to list options with \$2.50 strike price intervals for options with strike prices between \$50 and \$75. The Commission notes that it recently approved similar expansions to the \$2.50 Strike Price

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ Id.

¹⁵ In addition, Rule 19b-4(f)(6)(iii) requires that the Exchange give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has decided to waive the five-day pre-filing notice requirement.

¹⁶ For the purposes only of waiving the 30-day pre-operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Programs of the Chicago Board Options Exchange (“CBOE”) and the American Stock Exchange (“Amex”).¹⁷ These proposals were subject to a full notice-and-comment period, and no negative comments were submitted. The Commission does not believe that PCX’s proposal raises any novel issues.

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 Act.¹⁸

IV. 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-PCX-2005-137 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-9303.

¹⁷ See Securities Exchange Act Release Nos. 52892 (December 5, 2005), 70 FR 73492 (December 12, 2005) (approving SR-CBOE-2005-39) and 52893 (December 5, 2005), 70 FR 73488 (December 12, 2005) (approving SR-Amex-2005-067).

¹⁸ For purpose of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on December 16, 2005, the date that PCX filed Amendment No. 1.

All submissions should refer to File No. SR-PCX-2005-137. 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 Room, 100 F Street, NE, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of 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 No. SR-PCX-2005-137 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Jonathan G. Katz
Secretary

¹⁹ 17 CFR 200.30-3(a)(12).