

Commission approved.¹⁷ Notice of the CBOE Pilot was published for comment¹⁸ and the Commission received one comment letter, which supported the CBOE's proposal. Accordingly, the Commission believes that the Amex's Pilot Program raises no issues of regulatory concern. Amendment No. 2 clarifies the proposal by specifying the expiration date for the Pilot Program and the strike price intervals for options on individual stocks and ETFs. For these reasons, the Commission believes that there is good cause, consistent with sections 6(b)(5) and 19(b) of the Act,¹⁹ to approve the Amex's proposal, as amended, on an accelerated basis, through June 5, 2004.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²⁰ that the proposed rule change (SR-Amex-2003-36) and Amendments No. 1 and 2 thereto are hereby approved, on an accelerated basis and as a pilot program, through June 5, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48019; File No. SR-PCX-2003-16]

Self-Regulatory Organizations; Notice of Filing and Order Accelerating Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to an Amendment to the Auto-Ex Incentive Program

June 11, 2003.

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 May 21, 2003, 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 and

II below, which Items have been prepared by the Exchange. On June 6, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to amend its rules to extend the Automatic Execution System ("Auto-Ex") Incentive Pilot Program until June 30, 2004. The text of the proposed rule change is available at the Office of the Secretary, PCX 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 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 III below. PCX 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 25, 2001, the Commission approved, as a nine-month pilot program, the Exchange's proposal to amend Rule 6.87, which governs the operation of Auto-Ex,⁴ to provide an

³ See Letter from Tania J. Cho, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 5, 2003 ("Amendment No. 1"). In Amendment No. 1, PCX amended its proposal to request an extension of its Auto-Ex Incentive Program pilot until June 30, 2004, rather than June 24, 2004, as stated in the original proposal, so that the pilot's expiration coincides with the date on which the Exchange's "PCX Plus" system will be completely operative. See *supra* n. 10 and accompanying text.

⁴ Auto-Ex is the Exchange's Automated Execution system feature of POETS for market or marketable limit orders. The Pacific Options Exchange Trading System ("POETS") is the Exchange's automated trading system comprised of an options order routing system, an automatic execution system ("Auto-Ex"), an on-line limit order book system and an automatic market quote update system. Option orders can be sent to POETS via the Exchange's Member Firm Interface ("MFI"). Market and marketable limit orders sent through the MFI will be executed by Auto-Ex if they meet the order type and size requirements of the Exchange.

Auto-Ex Incentive Program for apportioning Auto-Ex trades among Market Makers.⁵ On June 7, 2002, the Commission extended the Auto-Ex Incentive Program pilot for six months⁶ and on December 24, 2002, the Commission extended the pilot for an additional six months.⁷ The pilot program is currently set to expire on June 24, 2003.

The Auto-Ex Incentive Program allows the Exchange to assign Auto-Ex orders to logged-on Market Makers according to the percentage of their in-person agency⁸ contracts traded in an issue (excluding Auto-Ex contracts) compared to all of the Market Maker in-person agency contracts traded (excluding Auto-Ex contracts) during the review period. The review period is determined by the Options Floor Trading Committee ("OFTC") and may be for any period of time not in excess of two weeks.⁹ The percentage distribution determined for a review period will be effective for the succeeding review period.

The Exchange is requesting an additional extension of the pilot program from June 24, 2003 through June 30, 2004. The added time permits the Exchange to phase-in the Exchange's new trading platform for options, "PCX Plus", on an issue-by-issue basis.¹⁰ As each issue is phased into PCX Plus, the Exchange will simultaneously phase-out such issue from the Auto-Ex Incentive Program. PCX Plus will eventually replace the Auto-Ex Incentive Program in its entirety. Therefore, the Exchange believes that an extension of the program is warranted until June 30, 2004, the date on which PCX Plus will be completely operative.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b)¹¹ of the Act, in general, and furthers the objectives of

⁵ See Exchange Act Release No. 44847 (September 25, 2001), 66 FR 50237 (October 2, 2001) (SR-PCX-01-05).

⁶ See Exchange Act Release No. 46115 (June 25, 2002), 67 FR 44494 (July 2, 2002) (SR-PCX-2002-34).

⁷ See Exchange Act Release No. 47088 (December 24, 2002), 68 FR 140 (January 2, 2003) (SR-PCX-2002-78).

⁸ Agency contracts are those contracts that are represented by an agent and do not include contracts traded between Markets Makers in person in the trading crowd.

⁹ The OFTC has set a two-week review period for all options classes and the OFTC will not vary the term of the review period except for exigent circumstances.

¹⁰ See Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003) ("PCX Plus Order").

¹¹ 15 U.S.C. 78f(b).

¹⁷ See Securities Exchange Act Release No. 47991 (June 5, 2003) (order approving File No. SR-CBOE-2001-60).

¹⁸ See Securities Exchange Act Release No. 47753 (April 29, 2003), 68 FR 23784 (May 5, 2003).

¹⁹ 15 U.S.C. 78f(b)(5) and 78s(b).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

section 6(b)(5),¹² in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and 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, as amended, 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. 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. 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 PCX. All submissions should refer to the File No. SR-PCX-2003-16 and should be submitted by July 9, 2003.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Exchange has requested that the Commission approve this proposed rule change on an accelerated basis. After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of

section 6(b)(5) of the Act.¹³ The Commission notes that this proposal is the latest in a series of Auto-Ex Incentive Pilot Program extensions previously approved by the Commission.¹⁴ Further, the Commission notes that the Auto-Ex Incentive Pilot Program itself has remained substantively unchanged since it was originally approved by the Commission as a nine-month pilot.¹⁵ The Commission believes that an extension until June 30, 2004 provides an appropriate period of time for the Exchange to continue its Auto-Ex Incentive Program while it phases-in its new trading platform for options, "PCX Plus," on an issue-by-issue basis. Once "PCX Plus" is fully implemented, the Exchange no longer will need to operate its Auto-Ex system.¹⁶ Accordingly, the Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

Is it therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-PCX-2003-16), as amended, is hereby approved on an accelerated basis, as a pilot program scheduled to expire on June 30, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3498]

State of Tennessee; (Amendment #5)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective June 10, 2003, the above numbered declaration is hereby amended to include Blount,

¹³ Id. In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ See Exchange Act Release No. 47088 (December 24, 2002), 68 FR 140 (January 2, 2003) (SR-PCX-2002-78) (six-month extension); Securities Exchange Act Release No. 46115 (June 25, 2002); 67 FR 44494 (July 2, 2002) (SR-PCX-2002-34) (six-month extension).

¹⁵ See Exchange Act Release No. 44847 (September 25, 2001), 66 FR 50237 (October 2, 2001) (SR-PCX-01-05).

¹⁶ See PCX Plus Order, supra n. 10.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

Cocke, Jefferson and Sevier Counties in the State of Tennessee as disaster areas due to damages caused by severe storms, tornadoes and flooding occurring on May 4, 2003 and continuing through May 30, 2003.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Greene and Hamblen in the State of Tennessee; and Haywood and Madison counties in the State of North Carolina may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 7, 2003, and for economic injury the deadline is February 6, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 12, 2003.

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3510]

Commonwealth of Virginia

Southampton County and the contiguous counties of Greensville, Isle of Wight, Surry, Sussex, and the Independent Cities of Franklin and Suffolk in the Commonwealth of Virginia; and Gates, Hertford, and Northampton Counties in the State of North Carolina constitute a disaster area due to damages caused by severe storms, hail, and tornadoes that occurred on May 9, 2003. Applications for loans for physical damage may be filed until the close of business on August 11, 2003 and for economic injury until the close of business on March 11, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.625
Homeowners without credit available elsewhere	2.812
Businesses with credit available elsewhere	5.906

¹² 15 U.S.C. 78f(b)(5).