

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

Within thirty-five 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 ninety 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 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, 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR-GSCC-00-12 and should be submitted by July 8, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46058; File No. SR-OCC-2002-08]

#### Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to an Agreement To Provide Clearance and Settlement Services to the Island Futures Exchange, LLC With Respect to Security Futures

June 10, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 15, 2002, The Options Clearing Corporation ("OCC") 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 primarily by OCC. 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 proposed rule change consists of the Security Futures Agreement for Clearing and Settlement Services entered into between OCC and The Island Futures Exchange, LLC ("IFX").

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

In its filing with the Commission, OCC 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. OCC 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

OCC is preparing to clear security futures for a number of markets. One such market is IFX. As it represented in a previous rule filing, OCC intends to file with the Commission the agreements it enters into with these

markets when negotiated.<sup>3</sup> This filing concerns the Security Futures Agreement for Clearing and Settlement services that OCC has entered into with IFX ("IFX Clearing Agreement").

The terms of the IFX Clearing Agreement are based on the terms of the Agreement for Clearing and Settlement Services entered into with Nasdaq Liffe Markets, LLC, formerly Nasdaq LIFFE, LLC, ("NqLX Clearing Agreement") which has been approved by the Commission.<sup>4</sup> The terms of the IFX Clearing Agreement are substantially the same as the terms of the NqLX Clearing Agreement. The notable differences are as follows:

Section 5, "Comparison of Security Futures Transactions; Settlement Prices," has been modified to specify the parties' agreements with respect to setting a daily settlement price if OCC does not accept IFX's reported price. New paragraph (c) has been added to address OCC's right to determine a final settlement price under certain circumstances. Section 5 also makes explicit that the parties' agreements establishing such settlement prices must be consistent with OCC's by-laws and rules.<sup>5</sup> New paragraph (c) is added to Section 16, "Indemnification," to cover intellectual property claims. New language in Section 19, "Breach of Agreement-Termination," provides additional grounds for termination. The parties' agreements on confidentiality of information have been incorporated in a letter agreement between the parties.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because the proposed rule change will foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and will remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

##### (B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

<sup>3</sup> See Securities Exchange Act Release No. 44727, (August 20, 2001), 66 FR 45351 [File No. SR-OCC-2001-07] (order approving comprehensive set of rule changes pertaining to clearance and settlement of security futures transactions). OCC also has filed a proposed rule change with the Commission [File No. SR-OCC-2002-07] requesting approval of clearing agreements with OneChicago and the Chicago Mercantile Exchange.

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

<sup>5</sup> Article XII, Sections 5 and 6; Rule 1301(d).

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

**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)(i) of the Act<sup>6</sup> and Rule 19b-4(f)(1)<sup>7</sup> thereunder because it constitutes a stated policy, practice or interpretation with respect to the meaning, enforcement or administration of an existing rule. At any time within sixty 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.

**VI. 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 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 Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR-OCC-2002-08 and should be submitted by July 8, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46055; File No. SR-PCX-2002-31]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to a One-Year Extension of the Automatic Opening Rotations Pilot Program**

June 10, 2002.

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 May 31, 2002, the Pacific Exchange, Inc. ("Exchange" or "PCX") 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 PCX. The proposed rule change has been filed by the PCX 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**

PCX proposes to extend its Automated Opening Rotations ("AOR") pilot program for one year, until September 30, 2003. 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 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 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 Statutory Basis for, the Proposed Rule Change**

**1. Purpose**

On September 30, 1999, the Commission approved a one-year pilot program for the operation of the Exchange's AOR System.<sup>4</sup> On August 21, 2000<sup>5</sup> and August 13, 2001,<sup>6</sup> respectively, the Commission granted one-year extensions to the pilot program. The extension program is currently set to expire on September 30, 2002.<sup>7</sup> AOR provides a procedure to facilitate the execution of option orders at the opening by providing an electronic means of establishing a single price opening. In its order approving the pilot program, the Commission stated that it expects the Exchange to study the issues related to the Commission's concerns during the pilot period and to report back to the Commission at least sixty days prior to seeking permanent approval of AOR.

The Exchange is requesting an additional one-year extension of the pilot program from September 30, 2002 to September 30, 2003. The added time permits the Exchange an opportunity to continue reviewing and evaluating the program in order to properly address the Commission's concerns before seeking permanent approval. The Exchange believes that this program is operating successfully and without any problems, and on that basis, the Exchange believes that a one-year extension of the program is warranted. At this time, the Exchange is not seeking to modify the pilot program.

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>9</sup> in particular, because it is designed to promote just and equitable principles of trade.

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

The Exchange does not believe that the proposed rule change will impose

<sup>4</sup> See Securities Exchange Act Release No. 41970 (September 30, 1999), 64 FR 54713 (October 7, 1999).

<sup>5</sup> See Securities Exchange Act Release No. 43187 (August 21, 2000), 65 FR 52464 (August 29, 2000).

<sup>6</sup> See Securities Exchange Act Release No. 44688 (August 13, 2001) 66 FR 43600 (August 20, 2001).

<sup>7</sup> *Id.*

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>7</sup> 17 CFR 240.19b-4(f)(1).