

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51039; File Nos. SR-NYSE-2004-12; SR-NASD-2003-140]

Self-Regulatory Organizations; Notice of Extension of the Comment Period for the Proposed Rule Changes by the New York Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. Relating to the Prohibition of Certain Abuses in the Allocation and Distribution of Shares in Initial Public Offerings

January 14, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² the New York Stock Exchange, Inc. (“NYSE”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change (SR-NYSE-2004-12), and Amendment No. 1 thereto, and the National Association of Securities Dealers, Inc. (“NASD”) filed a proposed rule change (SR-NASD-2003-140), and Amendments Nos. 1 and 2 thereto, relating to the prohibition of certain abuses in the allocation and distribution of shares in initial public offerings. A complete description of the proposed rule changes and the amendments thereto is found in the notice of filing, which was published in the **Federal Register** on December 28, 2004.³ The comment period expires on January 18, 2005.

To give the public additional time to comment on the proposed rule changes, the Commission has decided to extend the comment period pursuant to Section 19(b)(2) of the Act.⁴ Accordingly the comment period shall be extended until February 15, 2005.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rules are consistent with the Act and whether there are any differences between the NYSE and NASD proposals that present compliance or interpretive issues. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File

Nos. SR-NYSE-2004-12 and SR-NASD-2003-140. These file numbers 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 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 filings will also be available for inspection and copying at the principal offices of the NYSE and NASD. All submissions should be submitted by February 15, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51044; File No. SR-PCX-2005-05]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change To Increase Position Limits and Exercise Limits for Options on Standard and Poor’s Depository Receipts

January 14, 2005.

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 January 12, 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, 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. In addition, the Commission is granting

accelerated approval of the proposed rule change.

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

The Exchange proposes to amend PCX Rule 6.8 to increase position limits and exercise limits for options on the Standard and Poor’s Depository Receipts (“SPY”). The text of the proposed rule change is available on the PCX’s Web site (<http://www.pacificex.com>), at the PCX’s Office of the Secretary, and at the Commission’s Public Reference Room.

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 had received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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

The Exchange began trading options on SPY on January 10, 2005 on the Exchange’s electronic trading platform, PCX Plus. The Exchange proposes to amend PCX Rule 6.8, Commentary .06 to increase position limits and exercise limits for options on SPY from 75,000 to 300,000 contracts on the same side of the market.

Given the expected institutional demand for options on SPY, the PCX believes the current equity position limit of 75,000 contracts to be too low and a deterrent to the successful trading of the product. Options on SPY are $\frac{1}{10}$ th the size of options on the Standard and Poor’s 500 Index (“SPX”). Thus, a position limit of 75,000 contracts in SPY options is equivalent to a 7,500 contract position limit in SPX options. Traders who trade SPY options to hedge positions in SPX options are likely to find a position limit of 75,000 contracts in SPY options too restrictive, which may adversely affect the Exchange’s ability to provide liquidity in this product.

Comparable products, such as options on the Nasdaq-100 Index Tracking Stock (“QQQ”), are subject to a 300,000

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 50896 (December 20, 2004), 69 FR 77804 (December 28, 2004).

⁴ 15 U.S.C. 78s(b)(2).

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.