

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51038; File No. SR-PCX-2004-96)

January 14, 2005

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval to Proposed Rule Change To Amend PCXE Rule 4.5 To Require All Financial/Operations Principals of PCXE ETP Firms To Successfully Complete the Series 27 Examination and To Add PCXE Rule 6.18(d) To Require All Compliance Supervisors of PCXE ETP Firms To Successfully Complete the Series 24 Examination

On October 20, 2004, the Pacific Exchange, Inc. ("PCX" or "Exchange"), through its subsidiary, PCX Equities, Inc. ("PCXE"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend PCXE Rule 4.5 to require all financial/operations principals of PCXE ETP Firms to successfully complete the National Association of Securities Dealers, Inc.'s ("NASD") Financial and Operations Principal Examination ("Series 27 Examination"), and to add PCXE Rule 6.18(d) to require all compliance supervisors of PCXE ETP Firms to successfully complete NASD's General Securities Principal Examination ("Series 24 Examination"). The proposed rule change was published for comment in the Federal Register on December 14, 2004.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

Among other things the proposed rule change establishes a requirement that each Electronic Trading Permit ("ETP") holder subject to Securities Exchange Act Rule 15c3-

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 50818 (December 7, 2004), 69 FR 74558.

¹⁴ designate a Financial/Operations Principal (“FINOP”) and that the FINOP pass the Series 27 Examination. It also requires supervisory personnel to pass the Series 24 Examination and if the person subject to the Series 24 requirement also does business with the public that person must pass the General Securities Sales Supervisor Qualification Examination (“Series 9/10”).

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 exchange⁵ and, in particular, the requirements of Section 6 of the Act⁶ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act⁸ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that requiring all financial/operations principals of PCXE ETP Firms to successfully complete the Series 27 Examination ensures that individuals who prepare the financial statements

⁴ 17 CFR 240.15c3-1.

⁵ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

of PCXE ETP Firms will meet uniform qualifications to prepare such statements. The Commission also finds that requiring all compliance supervisors of PCXE ETP Firms to successfully complete the Series 24 Examination ensures that those who are supervising equities trading be uniformly qualified. The Commission notes that the proposed rule change gives PCXE the authority to waive all or a portion of the Series 24 Examination requirements pursuant to PCXE Rule 6.18(d). In evaluating whether to grant a full or partial waiver from the examination requirements, PCXE represents that it will review a number of factors including but not limited to the individual's industry experience, education, previous registration history with the Exchange and other examinations taken by the individual that may be acceptable substitutes in conjunction with securities industry experience. The Commission expects that PCXE will carefully evaluate the criteria when determining whether to grant a full or partial waiver, and will do so only for those candidates whose qualifications have been satisfactorily demonstrated, and for whom granting a waiver is consistent with protecting investors and the public interest.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁹, that the proposed rule change (SR-PCX-2004-96) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland
Deputy Secretary

Action as set forth or recommended herein
APPROVED pursuant to authority delegated by
the Commission under Public Law 87-592.

For the Division of Market Regulation

by: _____

(DATE)

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).