

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51228; File No. SR-PCX-2005-18)

February 18, 2005

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to PCX Rules 6.33 and 6.44, Amending Procedural Requirements for the PCX Market Maker and Floor Broker Examinations

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 February 4, 2005, the Pacific Exchange, Inc. (“PCX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by PCX. PCX filed this proposal pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 amend PCX Rules 6.33 and 6.44 in order to amend the procedural requirements for the Market Maker and Floor Broker examinations. The text of the proposed rule change is available on PCX’s web site ([http://www.pacificex.com/legal/legal\\_pending.html](http://www.pacificex.com/legal/legal_pending.html)), at the PCX’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

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

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

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

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 its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

PCX proposes to amend PCX Rules 6.33 (Registration of Market Makers) and 6.44 (Registration of Floor Brokers) in order to amend the procedural requirements for the Market Maker and Floor Broker examinations. These rules contain requirements that the Exchange give examinations with a specific number of questions (100 for Market Makers and 121 for Floor Brokers) and allow for a specific amount of time for the applicant to complete the examination (3 hours for Market Makers and 3 hours 30 minutes for Floor Brokers). With the implementation of PCX Plus, the Exchange's electronic order delivery, execution and reporting system for designated option issues through which orders and Quotes with Size are consolidated for execution and/or display, the Exchange completely revised its qualifying examinations in 2003. As such, the old requirements are no longer applicable and the rules need to be amended to remove the obsolete references.

The Exchange continually reviews and modifies its qualifying examinations. The examinations are amended to reflect changes in the industry as well as specific trading

rules applicable to the PCX. Questions are added and deleted as changes in the marketplace dictate. As such, the Exchange needs the ability to administer examinations without being required to submit a rule change to amend the number of questions or the amount of time for the applicant to complete the examination. Removing the current language from PCX Rules 6.33 and 6.44 will give the Exchange much greater flexibility in administering such examinations. The Exchange represents that it will file any changes to the examinations, including the addition or removal of questions, changes in the time allotted for completion or any other aspect of the examination, with the Commission before implementing such changes in accordance with the Commission's current policy on examinations. The Exchange plans to continually monitor the examination process and make adjustments to both the examinations and the time allowed to complete the examinations when such adjustments are needed.

## 2. Statutory Basis

PCX believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires the rules of the exchange be designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest. The PCX also believes that the proposed rule change is consistent with Section 6(c)(3) of the Act,<sup>6</sup> which authorizes PCX to prescribe standards of training, experience, and competence for persons associated with PCX members.

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

PCX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

<sup>6</sup> 15 U.S.C. 78f(c)(3).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

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

Because the proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> At any time within 60 days of the filing of such 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.

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. 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

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PCX-2005-18 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-PCX-2005-18. 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. Copies of such filing also will be available for inspection and copying at the principal office of the 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 Number SR-PCX-2005-18 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.<sup>9</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).