

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51637; File No. SR-PCX-2004-65)

April 29, 2005

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Pacific Exchange, Inc. Relating to the Deletion of Obsolete or Unnecessary Rules

On July 9, 2004, the Pacific Exchange, Inc. (“PCX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² filed with the Securities and Exchange Commission (“Commission”) a proposed rule change to delete certain of its rules, or portions thereof, the Exchange determined to be obsolete or unnecessary. The Exchange amended the proposal on February 9, 2005,³ and March 10, 2005.⁴ The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for notice and comment in the Federal Register on March 24, 2005.⁵ The Commission did not receive comments on the proposal. This order approves the proposed rule change, as amended.

The Exchange proposes to delete PCX Rule 4.7, PCX Rule 11.12(b), and PCX Options Floor Procedure Advice D-10, as the Exchange determined that such rules are obsolete or superfluous in the Exchange’s current market structure.

PCX Rule 4.7 requires OTP Holders that are exempt from the net capital requirement filings (Options Market Makers without proprietary trading and inactive lessors) to file with the Exchange a balance sheet and income statement every calendar quarter. The Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original proposal.

⁴ Amendment No. 2 partially amended the proposed rule change.

⁵ See Securities Exchange Act Release No. 51392 (March 17, 2005), 70 FR 15139.

represented that this rule is obsolete because the Exchange never implemented this reporting requirement as unnecessary. According to the Exchange, pursuant to Rule 17a-10 under the Act,⁶ exempt OTP Holders are only required to file an annual FOCUS Report, which includes a balance sheet and income statement on an annual basis.

PCX Rule 11.12(b) relates to PCX Joint Accounts reporting requirements. The Exchange proposed to delete this provision as unnecessary. According to the Exchange, PCX, by policy, does not allow the use of joint accounts by OTP Holders or OTP Firms for which the Exchange serves as the Designated Examining Authority, with one exception. Joint accounts are allowed for Market Makers who trade on the floor. The use of these accounts is controlled by Shareholder and Registration Services (“SRS”). SRS assigns the acronyms for use of these accounts (e.g., J68). Since these accounts are assigned by SRS, and all trades are monitored daily and fed through PCX’s existing surveillance systems, the Exchange does not require a separate weekly reporting requirement.

PCX Options Floor Procedure Advice D-10 (Imprinting the Name of OTP Holder or OTP Firm on Trade Tickets) requires that the name of the OTP Holder or OTP Firm be imprinted on the trade tickets. The Exchange represented that it no longer imposes such requirement. The required ticket information is now set forth in PCX Rule 6.68.

After careful review of the proposed rule change, 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.⁷ Specifically, the

⁶ 17 CFR 240.17a-10.

⁷ In approving the proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. The Commission believes that the proposal amends the Exchange's rules to more accurately reflect the Exchange's actual practices and policies, and, therefore, should promote greater transparency and improved understanding of Exchange rules.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-PCX-2004-65) and Amendment Nos. 1 and 2 are approved.

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

Margaret H. McFarland
Deputy Secretary

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).