

**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 34-52253; File No. SR-PCX-2005-16]

**Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto To Amend Its Market Data Rebate Program To Allow Equity Trading Permit Holders To Receive Rebates on an Estimated Basis**

August 15, 2005.

On February 1, 2005, the Pacific Exchange, Inc. ("PCX"), through its wholly owned 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its current market data rebate program to allow Equity Trading Permit Holders ("ETP Holders") to receive market data rebates on an estimated basis when certain conditions are met. On July 5, 2005, PCX amended the proposed rule change.<sup>3</sup> The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on July 14, 2005.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

Currently, the rules governing the Archipelago Exchange ("ArcaEx"), the equities trading facility of PCXE, allow ETP Holders to receive Liquidity Provider Credit payments on a quarterly basis for limit orders posted by such ETP Holder in Tape B securities<sup>5</sup> that execute against inbound marketable orders. Under the current market data revenue program the Liquidity Provider Credit applied to ETP Holders for limit orders in Tape B securities that execute against inbound marketable orders is 50% of the revenue from the Consolidated Tape Association ("CTA") Plan generated for such trades.

The Commission finds that PCX's proposal to pay eligible ETP Holders an estimated share of Liquidity Provider

Credits on a monthly basis, before quarterly revenues from the CTA Plan are distributed, consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,<sup>7</sup> which requires that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The PCX states that distributing estimated Liquidity Provider Credits on a monthly basis will make the pricing of executions on ArcaEx more competitive.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-PCX-2005-16), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,***Deputy Secretary.*

[FR Doc. E5-4590 Filed 8-22-05; 8:45am]

**BILLING CODE 8010-01-P****SMALL BUSINESS ADMINISTRATION****[Disaster Declaration No. 10164]****North Dakota Disaster No. ND-00002****AGENCY:** U.S. Small Business Administration.**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA-1597-DR), dated 07/22/2005.

*Incident:* Severe Storms, Flooding, and Ground Saturation.

*Incident Period:* 06/01/2005 through 07/07/2005.

*Effective Date:* 07/22/2005.

*Physical Loan Application Deadline Date:* 09/20/2005.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 3,

<sup>6</sup> In approving this 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).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

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

14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 07/22/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Benson, Bottineau, Cavalier, Dickey, Grand Forks, Griggs, Kidder, Lamoure, McHenry, Mountrail, Nelson, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sioux, Stark, Steele, Towner, Traill, Walsh, Ward; Turtle Mountain Indian Reservation; Portion of the Standing Rock Indian Reservation which lies within the state of North Dakota; Three affiliated tribes of the Fort Berthold Reservation.

The Interest Rates are:

Other (including non-profit organizations) with credit available elsewhere: 4.750.

Businesses and non-profit organizations without credit available elsewhere: 4.000.

The number assigned to this disaster for physical damage is 10164.

(Catalog of Federal Domestic Assistance Number 59008)

**Herbert L. Mitchell,***Associate Administrator for Disaster Assistance.*

[FR Doc. 05-16697 Filed 8-22-05; 8:45 am]

**BILLING CODE 8025-01-P****SMALL BUSINESS ADMINISTRATION****[Disaster Declaration #10163]****South Dakota Disaster #SD-00001****AGENCY:** U.S. Small Business Administration.**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA-1596-DR), dated 07/22/2005.

*Incident:* Severe Storm.

*Incident Period:* 06/07/2005 through 06/08/2005.

*Effective Date:* 07/22/2005.

<sup>1</sup> 15 U.S.C. 78s(b)(1).<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Amendment No. 1. In Amendment No. 1, PCX amended the purpose section of the filing to include examples of how estimated market data rebates would be calculated and how estimated market data rebates would be distributed.

<sup>4</sup> See Securities Exchange Act Release No. 51990 (July 7, 2005), 70 FR 40770.

<sup>5</sup> Tape B securities include securities that are on the American Stock Exchange or the regional national securities exchanges.