

is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The NYSE and NASD have neither solicited nor received written comments.

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

The foregoing rule changes have become effective pursuant to Section 19(b)(3)(A) of the Act²⁸ and paragraph (f)(1) of Rule 19b-4 thereunder,²⁹ in that the proposed rule changes constitute a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of the proposed rule changes, the Commission may summarily abrogate such rule changes 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 changes are 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
- Send an e-mail to rule-comments@sec.gov. Please include File Numbers SR-NYSE-2005-25 and/or SR-NASD-2005-043 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 Numbers SR-NYSE-2005-25 and/or SR-NASD-2005-043. These file numbers 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices of the NYSE and NASD. 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 the File Numbers SR-NYSE-2005-25 and/or SR-NASD-2005-043 and should be submitted on or before May 27, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁰

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51637; File No. SR-PCX-2004-65]

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

April 29, 2005.

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 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

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.

⁶ 17 CFR 240.17a-10.

²⁸ 15 U.S.C. 78s(b)(3)(A).

²⁹ 17 CFR 240.19b4-4(f)(1).

³⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 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

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51641; File No. SR-PCX-2005-49]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees and Charges

May 2, 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 April 8, 2005, the Pacific Exchange, Inc. ("PCX"

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).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the PCX as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2)⁴ thereunder, 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

The PCX proposes to amend its Schedule of Fees and Charges in order to adopt fees associated with the implementation of an electronic registration process through the National Association of Securities Dealers, Inc. ("NASD") Web Central Registration Depository ("CRD"). The text of the proposed rule change is available on the PCX Web site (<http://www.pacificex.com/>), at the principal office of the Exchange, 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 PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV 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 purpose of this proposed rule change is to adopt the fees associated with the implementation of an electronic registration process through NASD's CRD system. The Commission recently approved the PCX proposals to require all Option Trading Permit ("OTP") Holders and OTP Firms⁵ as

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ See Securities Exchange Act Release No. 51398 (March 18, 2005), 70 FR 15672 (March 28, 2005) (SR-PCX-2005-10).

well as all Equity Trading Permit ("ETP") Holders⁶ to use NASD's CRD system as the mechanism for submitting required Forms U-4 and U-5 filings to the Exchange. The proposed fees will apply to all OTP and ETP applicants. The proposed fees are similar to those fees charged by other SROs that use NASD's CRD. The proposed new fees are a NASD CRD Processing Fee, a NASD Disclosure Processing Fee, a PCX Transfer/Relicense Fee, a NASD Annual System Processing Fee and a NASD Manual Processing Fee for Fingerprint Results Submitted by Other SROs.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act,⁸ in particular, in that it is an equitable allocation of reasonable fees among Exchange members.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were either solicited or received.

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

The foregoing proposed rule change has become immediately effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2)¹⁰ thereunder, because it establishes a fee imposed by the Exchange. At any time within 60 days of the filing of the 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,

⁶ See Securities Exchange Act Release No. 51399 (March 18, 2005), 70 FR 15674 (March 28, 2005) (SR-PCX-2005-11).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).