

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47129; File No. SR-NYSE-2003-01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Extend a Pilot With Respect to Amendments to Rule 431 Relating to Margin Requirements for Security Futures Contracts

January 6, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 6, 2003, the New York Stock Exchange, Inc. ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(iii) of the Exchange Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ 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

This proposal is to extend until March 6, 2003, the effectiveness of amendments to Rule 431 relating to margin requirements for Security Futures Contracts ("SFCs"), which the Commission approved on a pilot basis for sixty days (the "Pilot") on November 7, 2002.

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 Exchange 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 Exchange 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

On October 23, 2002, the Exchange filed a proposed rule change with the Commission to amend Rule 431 with regard to SFCs. On November 6, 2002, the Exchange filed an amendment with the Commission to the proposed rule change.⁶ This amendment was filed as a sixty-day pilot, and approved by the Commission on November 7, 2002,⁷ effective through January 6, 2003.

The Exchange proposes to extend this Pilot for an additional sixty days (from January 6, 2003 until March 6, 2003) in order to allow the Pilot to continue in effect on an uninterrupted basis and to permit customers to continue trading SFCs in securities accounts while the Exchange considers the comments it has received on the Pilot.

2. Statutory Basis

The Exchange believes that the basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) of the Exchange Act⁸ that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change is designed to accomplish these goals by permitting customers to trade SFCs in securities accounts.

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

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

⁶ See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated November 5, 2002 ("Amendment No. 1"). Amendment No. 1 replaced the original rule filing (SR-NYSE-2002-53 (October 23, 2002)) in its entirety. Amendment No. 1 also proposed that the changes be effective for a sixty-day pilot, and requested accelerated approval of the proposed rule change.

⁷ See Securities Exchange Act Release No. 46782 (November 7, 2002), 67 FR 69052 (November 14, 2002) (SR-NYSE-2002-53).

⁸ 15 U.S.C. 78f(b)(5).

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

The Exchange has received written comments on the original proposed rule change that was filed with the Commission on October 23, 2002 and amended on November 6, 2002. The Exchange is currently considering such comments.

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of the filing, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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 Exchange Act.

A proposed rule change filed under Rule 19b-4(f)(6) normally must not become operative prior to 30 days after the date of the filing. In addition, a self-regulatory organization filing a proposed rule change under Rule 19b-4(f)(6)(iii) normally must give the Commission written notice of its intent to file the proposed rule change five days prior to the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive both the five-day pre-filing requirement and designate that the proposed rule change become operative immediately to allow the Pilot to continue in effect on an uninterrupted basis and for the Exchange to consider comments it has received on the Pilot.

The Commission believes it is consistent with the protection of investors and the public interest to waive the five-day pre-filing requirement and designate the proposal

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The NYSE asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

immediately operative.¹¹ Accelerating the operative date and waiving the pre-filing requirement should permit the Exchange to permit customers to continue to trade SFCs in securities accounts on an uninterrupted basis while the Exchange considers comments it has received on the Pilot. The Commission notes that the Exchange anticipates filing a new proposed rule change to adopt the Pilot on a permanent basis. Accordingly, the Commission designates the proposed rule change to be effective and operative upon filing with the Commission.

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 Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. 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 in 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to SR-NYSE-2003-01 and should be submitted by February 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-793 Filed 1-14-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47131; File No. SR-PCX-2002-73]

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

January 6, 2003.

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 December 9, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 is proposing to amend its Schedule of Fees and Charges by making a technical change to its DEA Regulatory fees. In addition, the Exchange, through its wholly-owned subsidiary PCX Equities, Inc. is proposing to amend its Schedule of Fees and Charges to make a technical change to its DEA Regulatory fees. The text of the proposed rule change is below. New text is italicized; deleted text is in brackets.

SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

PCX General membership fees:

Regulatory fees:

*	*	*	*	*	*	*	*
DEA Fee [1]	\$2,000	monthly fee per firm ¹ .					
		\$250 annual fee per trader ¹ .					
		\$75 one-time registration fee per trader ¹ .					
		\$250 per quarter for firms engaging in non-public business.					

¹ These fees will apply to member organizations for which the Exchange is the Designated Examining Authority. Member Organizations that can demonstrate that at least 25% of their income, as reflected on the most recently submitted FOCUS report, was derived from on-floor activities will be exempt from these charges.

SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

Archipelago Exchange:
Other Fees and Charges
Regulatory Fees:

*	*	*	*	*	*	*	*
DEA Fee	\$2,000	monthly fee per firm.					
		\$250 annual fee per trader.					
		\$75 one-time registration fee per trader.					
		[\$250 per quarter for firms engaging in non-public business].					

¹¹ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on

efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.