

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NSCC-2003-03. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC or on NSCC's Web site at <http://www.nsc.com/legal/>. All submissions should refer to File No. SR-NSCC-2003-03 and should be submitted by February 6, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49053; File No. SR-PCX-2003-63]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Post-Trade Anonymity to Its ETP Holders

January 12, 2004.

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 November 12, 2003, the Pacific Exchange, Inc. ("PCX" or "Exchange"), through its wholly-owned subsidiary PCX Equities, Inc. ("PCXE"), 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. On January 9, 2004, the Exchange submitted Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to provide post-trade anonymity to its ETP Holders and to modify PCXE Rule 7.41 accordingly. The text of the proposed rule changes is available at the PCX and at the Commission.

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 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

The Exchange is proposing to extend anonymity on its Archipelago Exchange ("ArcaEx") through to post settlement. Currently, Users⁴ may display and execute orders on an anonymous basis pursuant to PCXE Rules 7.36 and 7.37, respectively. Accordingly, during the execution process, Users' orders are executed without knowledge of the contra-party's identity. At the end of the trading day, the contra-party's identity on a trade-by-trade basis is revealed to ETP Holders⁵ for their respective trades through web-based reports. Therefore, anonymity is maintained through execution, but not through the end-of-day settlement process.

The Exchange proposes to modify PCXE Rule 7.41 to clarify that the contra-party to the trade will not be revealed except in specific instances as discussed below. The Exchange believes that due to interest expressed by ETP Holders and the National Association of Securities Dealers, Inc.'s recent approval to implement post-trade anonymity,⁶ it is essential for ArcaEx to offer its Users anonymity through the settlement process. To facilitate this, ArcaEx has worked with the National Settlement Clearing Corporation ("NSCC") to accommodate anonymity on a post-trade basis. NSCC will assign ArcaEx trades with a unique clearing number. ArcaEx will submit clearing records to NSCC, which, pursuant to its rules,⁷ will report trades executed on ArcaEx back to its clearing firms utilizing the unique clearing number for the contra-party rather than reveal that contra-party's acronym.

To address risk management concerns, ArcaEx will provide ETP Holders with intra day concentration reports that reflect, on an aggregate basis, the share volume and dollar amount executed by each contra-party without identifying the contra-party. In addition, ArcaEx will provide the contra-party's identity when required for legal or regulatory purposes.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Mai S. Shiver, Acting Director of Regulatory Policy, PCX, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated January 9, 2004 ("Amendment No. 1"). In Amendment No. 1, the PCX explained that it currently has rules in place to assure that ETP Holders maintain recordkeeping requirements under the Act. The PCX also clarified that under the PCX's current procedures for adjusting trades, ETP Holders do not need to know the identity of their contra-party in order to adjust an erroneous trade.

⁴ See PCXE Rule 1.1(yy) for the definition of "User."

⁵ See PCXE Rule 1.1(n) (definition of "ETP Holder").

⁶ See Securities Exchange Act Release No. 48088 (June 25, 2003), 68 FR 39605 (July 2, 2003) (SR-NASD-2003-85).

⁷ See Securities Exchange Act Release No. 48526 (September 23, 2003), 68 FR 56367 (September 30, 2003) (SR-NSCC-2003-14).

⁴ 17 CFR 200.30-3(a)(12).

Furthermore, when NSCC ceases to act for an ETP Holder or the ETP Holder's clearing firm, and NSCC determines not to guarantee the settlement of the ETP Holder's trade, ArcaEx will reveal the contra-party's identity.

The Exchange believes that post-trade anonymity will benefit investors because preserving anonymity through settlement limits the potential market impact that disclosing the Users' identity may have. Specifically, when the contra-party's identity is revealed, Users can detect trading patterns and make assumptions about the potential direction of the market based on the User's presumed client-base. For example, if the User handles large institutional orders and becomes an active buyer in the security, others could anticipate such demand and adjust their trading strategy accordingly. The Exchange believes that this could result in increased costs. The Exchange states that post-trade anonymity will not compromise an ETP Holder's ability to settle an erroneous trade, because under PCXE Rules 7.10–7.11, the trade adjustment process is coordinated by the Exchange, without the need for contra-parties to know each other's identities.⁸ By eliminating the User's identity and mitigating market impact, the Exchange believes that it will help Users meet best execution obligations.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,⁹ in general, and section 6(b)(5) of the Act,¹⁰ in particular, in that it will promote just and equitable principles of trade; facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system; and protect investors and the public interest.

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.

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

Written comments on the proposed rule change were neither solicited nor received.

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

Because the foregoing 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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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.¹³

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the 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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-PCX-2003-63. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 will also be

available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-2003-63, and should be submitted by February 6, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 4586]

United States International Telecommunication Advisory Committee; Information Meeting on the World Summit on the Information Society and the U.S. Preparatory Process

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings pertaining to telecommunication and information issues.

The ITAC will meet to discuss the matters related to the World Summit on the Information Society (WSIS), which took place in December 2003, including the follow-up to WSIS. The meeting will take place on Wednesday, February 4, 2004 from 10:30 a.m. to 12 p.m. in the auditorium of the Historic National Academy of Science Building. The National Academy of Sciences is located at 2100 C St. NW., Washington, DC.

Members of the public are welcome to participate and may join in the discussions, subject to the discretion of the Chair. Persons planning to attend this meeting should send the following data by fax to (202) 647-5957 or e-mail to jillsonad@state.gov not later than 24 hours before the meeting: (1) Name of the meeting, (2) your name, and (3) organizational affiliation. A valid photo ID must be presented to gain entrance to the National Academy of Sciences Building. Directions to the meeting location may be obtained by calling the ITAC Secretariat at 202 647-5205 or e-mail to jillsonad@state.gov.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ For purposes of determining the effective date of the filing and calculating the 60-day abrogation date, the Commission considers the period to commence on January 9, 2004, the date PCX filed Amendment No. 1.

¹⁴ 17 CFR 200.30-3(a)(12).

⁸ See Amendment No. 1.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).