

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-51242; File No. SR-PCX-2004-131)

February 23, 2005

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to FOCD Forms Due Date

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 23, 2004, the Pacific Exchange, Inc. (“PCX” or “Exchange”), through its wholly owned subsidiary PCX Equities, Inc. (“PCXE”), filed with the Securities and Exchange Commission (“Commission” or “SEC”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 the PCXE rules to change the due date of Financial and Operational Compliance Department (“FOCD”) Forms relating to SEC Rule X-17A-

5. The text of the proposed rule change is below. Proposed new language is in italics.

Proposed deletions are in brackets.

Rules of the Pacific Exchange, Inc.

Rule 4

Capital Requirements, Financial Reports, Margins

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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Part II Quarterly Reports

Rule 4.5 (c) Two manually signed copies of Part II of SEC Form X-17A-5 shall be filed for each calendar quarter by any OTP Holder or OTP Firm which carries or clears accounts for customers. Such report shall be due by the seventeenth [fifteenth] business [calendar] day following the end of the calendar quarter being reported upon.

Part IIA Quarterly Reports

Rule 4.5 (d) Two manually signed copies of Part IIA of SEC Form X-17A-5 shall be filed for each calendar quarter by any OTP Holder or OTP Firm which does not carry or clear accounts for customers. Such report shall be due by the seventeenth [fifteenth] business [calendar] day following the end of the calendar quarter being reported upon.

Part II or Part IIA Filings on Other Than Calendar Quarters

Rule 4.5 (e) An OTP Holder or OTP Firm shall file an additional Part II or Part IIA of SEC Form X-17A-5, as appropriate, within seventeen [fifteen] business [calendar] days after the date selected for the annual audited financial statements of the OTP Holder or OTP Firm, pursuant to the provisions of Rule 4.10, where such date does not coincide with the end of a calendar quarter.

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Rules of PCX Equities, Inc.

Rule 4

Capital Requirements, Financial Reports, Margins

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Part II Quarterly Reports

Rule 4.5 (b) Two manually signed copies of Part II of SEC Form X-17A-5 shall be filed for each calendar quarter by any ETP Holder which carries or clears accounts for customers. Such report shall be due by the seventeenth [fifteenth] business [calendar] day following the end of the calendar quarter being reported upon.

Part IIA Quarterly Reports

Rule 4.5 (c) Two manually signed copies of Part IIA of SEC Form X-17A-5 shall be filed for each calendar quarter by any ETP Holder which does not carry or clear accounts for customers. Such report shall be due by the seventeenth [fifteenth] business [calendar] day following the end of the calendar quarter being reported upon.

Part II or Part IIA Filings on Other Than Calendar Quarters

Rule 4.5 (e) An ETP Holder shall file an additional Part II or Part IIA of SEC Form X-17A-5, as appropriate, within seventeen [fifteen] business [calendar] days after the date selected for the annual audited financial statements of the ETP Holder, pursuant to the provisions of Rule 4.10, where such date does not coincide with the end of a calendar quarter.

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 self-regulatory organization 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 self-

regulatory organization 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

Purpose

The Exchange proposes to amend PCX Rules 4.5(c)-(e) and PCXE Rules 4.5(b)-(d) to update the due date of Quarterly Reports (SEC Form X-17A-5). The PCX proposes to amend the PCXE rules to adopt new fees for late Financial and Operational Compliance Department (“FOCD”) required forms. The Exchange currently requires that SEC Form X-17A-5 be filed the fifteenth calendar day following the end of the quarter being reported upon. The Exchange proposes to amend the date to the seventeenth business day following the end of the calendar quarter being reported upon. This modification is an administrative change to make the Exchange rule due dates consistent with the filing requirements for such forms set forth in SEC Rule 17a-5.³

Basis

The Exchange believes that the proposal is consistent with Section 6(b)⁴ of the Act, in general, and Section 6(b)(4)⁵ of the Act, in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its OTP Holders, OTP Firms, ETP Holders, issuers, and other persons using its facilities.

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

³ 17 CFR 240.17a-5.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)⁶ of the Act and subparagraph (f)(3) of Act Rule 19b-4 thereunder,⁷ because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission could have summarily abrogated such rule change if it appeared to the Commission that such action was necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance 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 change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(3).

- 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 Number SR-PCX-2004-131 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 Number SR-PCX-2004-131. 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, please use only one method. 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 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 File Number SR-PCX-2004-131 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).

