Room. Copies of these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's Web site (http://www.sec.gov). All submissions should refer to File No. SR–NFA–2003–01 and should be submitted by April 16, 2003.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7115 Filed 3–25–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47549; File No. SR–PCX–2003–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Amend its Fee Schedule for Services Provided to ETP Holders and Sponsored Participants That Trade Nasdaq Securities on the Archipelago Exchange

March 20, 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 January 30, 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 March 19, 2003, the Exchange amended the proposal.[3] The PCX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the PCX under section 19(b)(3)(A)(ii) of the Act,[4] which renders the proposal effective upon filing with the Commission. 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, through PCXE, proposes to amend its fee schedule for services provided to ETP Holders and Sponsored Participants that trade Nasdaq securities on the Archipelago Exchange, the equities trading facility of PCXE. The text of the proposed rule change 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 its proposal and discussed any comments it received regarding the proposal. 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 Exchange proposes to amend the fees charged to ETP Holders[5] and Sponsored Participants[6] (collectively ''Users'') that access the ArcaEx trading facility to include certain fees and credits for Nasdaq securities. ArcaEx is scheduled to begin trading Nasdaq securities pursuant to unlisted trading privileges[7] in the early first quarter of 2003. The Exchange proposes to adopt fees for Nasdaq securities that parallel the Exchange's rate structure for exchange-listed securities.

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[5] *See* PCXE Rule 1.1(n).

[6] A ''Sponsored Participant'' means ''a person which has entered into a sponsorship arrangement with a Sponsoring ETP Holder pursuant to [PCXE] Rule 7.29.'' *See* PCXE Rule 1.1(tt).

[7] *See* Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges (''Nasdaq UTP Plan''). The participants in the Nasdaq UTP Plan are the National Association of Securities Dealers, Inc. (''NASD''), the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Stock Exchange, Inc. (''CHX''), the Cincinnati Stock Exchange, Inc. (''CSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx''). Eligible securities under the Nasdaq UTP Plan are defined in section III.B.

Trade-Related Charges

(a) Transaction Fees. The PCX currently charges all Users a transaction fee of $0.003 per share for orders in exchange-listed securities that extract liquidity by responding to, and executing against, orders residing in the ArcaEx Book (''Book'').[8] The Exchange proposes to charge this same transaction fee to Users for orders in Nasdaq securities. The Exchange believes that this proposed fee will provide incentives for increasing order flow to ArcaEx, and will have the effect of attracting resting limit orders into the Book, which will help promote liquidity, transparency, and in turn, price discovery. The Exchange notes that the following items continue to be excluded from this fee: (i) Directed Orders, regardless of account type, that are matched within the Directed Order Process;[9] (ii) Directed Orders for the account of a retail public customer that are executed partially or in their entirety via the other Order processes;[10] (iii) orders executed in the Opening Auction and the Market Order Auction;[11] (iv) Cross Orders;[12] and (v) participants in the Nasdaq UTP Plan that transmit orders via telephone.[13]

The PCX also proposes to charge a transaction fee of $0.004 per share for any unfilled or residual portion of a User's order in Nasdaq securities (including a retail public customer

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[8] ArcaEx maintains an electronic file of orders, called the ArcaEx Book, through which orders are displayed and matched. The ArcaEx Book is divided into four components, called processes— the Directed Order Process, the Display Order Process, the Working Order Process, and the Tracking Order Process. *See* PCXE Rules 7.36 and 7.37 for a detailed description of these order execution processes.

[9] The Directed Order Process is the first step in the ArcaEx execution algorithm. Through this Process, Users may direct an order to a Market Maker with whom they have a relationship and the Market Maker may execute the order. To access this process, the User must submit a Directed Order, which is a market or limit order to buy or sell that has been directed to a particular Market Maker by the User. *See* PCXE Rule 7.37(a)(description of ''Directed Order Process'').

[10] If a retail public customer order has not been executed in its entirety after progressing through the Directed Order, Display Order, Working Order, and Tracking Order processes, the remaining portion of such order, if eligible, will be routed to another market center or participant. Any executed portion of that order will be subject to the proposed transaction fee of $0.004 per share.

[11] *See* PCXE Rules 7.35(b) and (c) for a detailed description of the Opening Auction and the Market Order Auction, respectively.

[12] A Cross Order is defined as a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the cross price), subject to price improvement requirements. *See* PCXE Rule 7.31(s).

[13] *See* footnote 7, *supra.*

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[8] 17 CFR 200.30–3(a)(75).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* March 18, 2003 letter from Rhonda Y. Jones, Regulatory Policy, PCX, to Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC, and attachments (''Amendment No. 1''). Amendment No. 1 replaces and supersedes the original proposed rule change in its entirety. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on March 19, 2003, the date the PCX filed Amendment No. 1. *See* section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

order)[14] that is routed away via ArcaEx and executed by another market center or participant. The proposed transaction fee of $0.004 per share is the same amount that is currently applied to orders in exchange-listed securities that are routed away and executed by another market center or participant. The Exchange believes that this fee is reasonable and is structured to allocate fairly the costs of operating the ArcaEx facility.

(b) Odd and Mixed Lots. The Exchange proposes to charge all odd-lot orders executed in Nasdaq securities (including the odd-lot portion of a mixed lot) a $0.03 per share transaction fee for orders that extract liquidity by responding to, and executing against, orders residing in the ArcaEx Book. In addition, the PCX proposes to adopt a $0.03 per share transaction fee for orders in Nasdaq securities that are routed away and executed by another market center or participant. These proposed transaction fees for Nasdaq securities are of the same amount as currently applied to odd-lot orders in exchange-listed securities. The PCX notes that odd-lot orders that are created as a result of a partial fill of a round lot will be excluded from these fees.

Market Maker Transaction Credits

The Exchange proposes to increase the level of the transaction credit paid to Market Makers who provide liquidity in exchange-listed securities. Currently, Market Makers who enter Q Orders [15] in exchange-listed securities that are subsequently executed against incoming marketable orders, earn a credit of $0.0015 per share.[16] The Exchange proposes to increase the level of the transaction credit for exchange-listed securities from $0.0015 to $0.0025 per share.[17] The Exchange is also proposing to establish a $0.002 credit per share for Nasdaq securities. In addition, $0.02 per share will be credited to any Market Maker that executes against an odd-lot order in a Nasdaq security during the Odd Lot Tracking Process.[18] These

credits are intended to provide an additional incentive to firms to become Market Makers in exchange-listed and Nasdaq securities and to build liquidity in the Book, which will foster price competition and order interaction.

Other Fees, Charges and Credits

(a) User Transaction Credit. PCX proposes to establish a transaction credit for Users who provide liquidity in the Book in Nasdaq securities. Under the proposal, a User that enters a resting limit order into the Book that is subsequently executed against an incoming marketable order in a Nasdaq security will receive a credit of $0.002 per share. This credit is designed to enhance market efficiency and fairness by offering incentives to market participants that provide liquidity through ArcaEx. Any credit received by a User will be applied to reduce any charges payable to ArcaEx. Any remaining balance may be paid directly to the User.

(b) "Drop Copy" Processing Fee. The PCX currently charges Market Makers a $0.001 per share fee for processing "drop copies"[19] of their transactions executed on other market centers. The Exchange proposes to broaden the application of this fee to include any ETP Holders that want to receive drop copies of such off-board transactions. The current fee of $0.001 per share will remain in effect and will apply to such off-board transactions in exchange-listed and Nasdaq securities. In addition, the Exchange notes that Market Maker transactions that are subject to this fee will continue to be ineligible to receive the Market Maker Transaction Credit or User Transaction Credit. The Exchange believes that this fee is reasonable and is structured to allocate fairly the costs of operating the ArcaEx facility.

2. Statutory Basis

The Exchange believes the proposal is consistent with section 6(b) of the Act,[20] in general, and section 6(b)(4) of the Act,[21] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [22] and subparagraph (f)(2) of Rule 19b-4 thereunder,[23] because it establishes or changes a due, fee, or other charge. 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, including whether the proposal 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. 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 number SR-PCX–2003–04 and should be submitted by April 16, 2003.

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[14] *See* footnote 10, *supra.*

[15] Q Orders are limit orders that are submitted to ArcaEx by a Market Maker in those securities in which the Market Maker is registered to trade. *See* PCXE Rule 7.31(k).

[16] The transaction credit applied to orders in Exchange-Traded Funds ("ETFs") and American Depositary Receipts ("ADRs") is currently $0.002 per share.

[17] The current $0.02 per share credit that is provided to any Market Maker that executes against an odd-lot order in the Odd Lot Tracking Order Process will remain in effect.

[18] The Tracking Order Process is the fourth step of the ArcaEx execution algorithm. If the unfilled marketable order (or portion of an order) that enters the Tracking Order Process is an odd lot, such order will be executed against a Market Maker that is

registered as an Odd Lot Dealer. *See* PCXE Rules 7.31(g) and 7.37(c).

[19] Under the current fee schedule, a "drop copy" is an electronic report of a transaction for a Market Maker's account that is executed on another market center and that has been prepared for informational purposes (*e.g.,* Market Maker inventory tracking, surveillance audit trail). Market Maker transactions that are subject to this fee will not be eligible to receive the Market Maker Transaction Credit or User Transaction Credit.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(4).

[22] 15 U.S.C. 78s(b)(3)(A)(ii).

[23] 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 03–7227 Filed 3–25–03; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47543; File No. SR–Phlx–2003–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Delivery of Immediate or Cancel Orders Via AUTOM and an Increase in the AUTOM Order Delivery Size for Off-Floor Broker-Dealer Orders

March 20, 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 March 10, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] 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

Phlx proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X),[5] to add a new eligible order

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[24] 17 CFR 200.30–3(a)(12).

[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] AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO–X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. *See* Exchange Rule 1080.

type, Immediate or Cancel (''IOC''), for delivery by both customers and broker-dealers. The Exchange also proposes to amend Exchange Rule 1080(b)(i)(C) to reflect that the Options Committee has determined to increase the eligible AUTOM order delivery size for off-floor broker dealer orders from 200 contracts to 1,000 contracts for all options.[6]

The text of the proposed rule change is set forth below. Proposed new language is underlined; proposed deletions are in brackets.

*   *   *   *   *

Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

Rule 1080. (a) No change.
(b) Eligible Orders
(i) The following types of orders are eligible for entry into AUTOM:
(A) Agency orders up to the maximum number of contracts permitted by the Exchange may be entered. Agency orders up to 1000 contracts, depending on the option, are eligible for AUTOM order delivery, subject to the approval of the Options Committee. The following types of agency orders are eligible for AUTOM; day, GTC, *Immediate or Cancel (''IOC''),* market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible duplicate orders.
(B) No change.
(C) Off-floor broker-dealer limit orders, up to the minimum number of contracts permitted by the Exchange, subject to the restrictions on order entry set forth in Commentary .05 of this Rule. Generally, orders up to [200] *1,000* contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee may determine to increase the eligible order delivery size to an amount greater than [200] *1,000* contracts, on an issue-by-issue basis. The following types of broker-dealer limit orders are eligible for AUTOM: day, GTC, *IOC,* simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order.
(ii)-(iii) No change.

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[6] The Exchange represents that this proposal will have no impact on AUTO–X. Telephone call among Rick Rudolph, Director and Counsel, CBOE; Terri Evans, Assistant Director, Division of Market Regulation (''Division''), Commission; and Jennifer Lewis, Attorney, Division, Commission, on March 20, 2003.

(c)-(j) No change.
Commentary: No change.

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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

Phlx represents that the purpose of the proposed rule change is to increase the automated handling of options orders, and attract additional order flow, by allowing customers and broker-dealers to deliver Immediate or Cancel (''IOC'')[7] orders via AUTOM, amending the rule to reflect that the Exchange's Options Committee[8] has determined to increase the eligible AUTOM delivery size of off-floor broker-dealer orders[9] from 200 contracts to 1,000 contracts for all issues.

IOC Orders. Exchange Rule 1080(b)(i)(A) lists the various types of agency orders[10] that are eligible for

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[7] An ''IOC'' order means a limit order that is to be executed in whole or in part as soon as such order is received, and the portion not executed, if any, is immediately canceled.

[8] The Exchange's Options Committee has general supervision of the dealings of members on the equity and index options trading floor, and shall make or recommend such rules as it may deem necessary for the convenient and orderly transaction of business upon the equity and index options trading floor. *See* Exchange By-Law Article X, Section 10–19.

[9] In April, 2002, the Commission approved a proposed rule change to allow the delivery of orders for the account(s) of off-floor broker-dealers via AUTOM on a six-month pilot basis (the ''pilot''). *See* Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR–Phlx–2001–40). The pilot was approved on a permanent basis in October, 2002. *See* Securities Exchange Act Release No. 46660 (October 15, 2002), 67 FR 64951 (October 22, 2002) (SR–Phlx–2002–50).

[10] The Exchange has defined an agency order as any order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. *See, e.g.,* Exchange Rule 229.02. *See also,* Securities