

rule change become effective upon filing because:

i. The proposed amendment to NYSE Rule 609 codifies the Exchange's existing practice regarding challenges for cause and duplicates publicly available information in SICA's Arbitrator's Manual.

ii. The proposed amendment to NYSE Rule 610 codifies the Exchange's existing interpretation of NYSE Rule 610 and its practices regarding arbitrators' obligations to make a reasonable effort to inform themselves of any interests or relationships described in NYSE Rule 610(a) and to disclose such information.

iii. The proposed amendments to NYSE Rule 619 will eliminate the need for parties to file information requests and responses with the Director of Arbitration since those documents do not require action by arbitrators.

iv. The proposed amendment to the Voluntary Supplemental Procedures for Selecting Arbitrators will conform the threshold for single arbitrator cases under the Supplemental Procedures with the higher threshold approved by the Commission in NYSE Rule 601 (Simplified Arbitration).

A proposed rule change filed under Rule 19b-4(f)(6)<sup>10</sup> does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The NYSE has requested that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b-4(f)(6)(iii).<sup>11</sup> The Commission believes waiving the 30-day operative date is consistent with the protection of investors and the public interest. For this reason, the Commission has determined to make the proposed rule change operative as of the date of this notice.<sup>12</sup>

At any time within 60 days of filing of such 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 the 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 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. 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 NYSE. All submissions should refer to SR-NYSE-2003-15 and should be submitted by June 23, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-47926; File No. SR-PCX-2003-19]**

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

May 23, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 29, 2003, 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. On May 22, 2003, the Exchange filed Amendment

No. 1 to the proposed rule change.<sup>3</sup> 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 changing the following fees for options: the trade match fees and the shortfall fee. The text of the proposed rule change is available at the principal office of 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 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 the Statutory Basis for, the Proposed Rule Change*

##### **(1) Purpose**

The Exchange is proposing to make changes to its Schedule of Fees and Charges with respect to the following fees effective for the May 2003 trading month: trade match fees and shortfall fees. Other than the fees listed herein, the Exchange does not seek to make any other changes to its fee schedule.

*Trade Match Terminal and Table Fees.* The Exchange currently charges "trade match" terminal and table fees in order to allow the Member Firms to use the PCX facilities to verify matched trades between buyers and sellers. Currently the Exchange charges a trade match terminal fee of \$80 per month per terminal and trade match table fees in the amount of \$120 per month for a six-foot table, \$80 per month for a four-foot table, and \$60 per month for a shared six-foot table.

With technological advances, the PCX is now able to offer Member Firms more flexibility in determining the location where they perform the trade match function. The Exchange will continue to offer Member Firms the opportunity to

<sup>10</sup> *Id.*

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> 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).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 replaced the original Form 19b-4 in its entirety.

use the Exchange's facilities and dedicated terminals for its trade match functions at the existing rates referenced above. The Exchange also intends to allow Member Firms to connect their own PCs via the Exchange to SIAC, the Exchange's provider of clearing-related processing. For this, the Exchange proposes a fee of \$80 per month per user ID. This is identical to the fee that the Exchange currently charges for allowing Member Firms to utilize the Exchange's dedicated computer terminals for trade match. The Exchange proposes to apply a reduced fee of \$50 per month per user ID if the Member Firm uses its own PCs that connect via the Member Firm's SIAC connection. For trade match table fees, the Exchange proposes to add another option that will allow Member Firms to pay \$50 per month per dedicated booth on the options trading floor.

**Shortfall Fee.** The Exchange currently charges a shortfall fee of \$0.35 per shortfall contract on the top 120 equity option issues if the PCX volume in the issue is less than 12% of the national volume in that issue for that month. The volume base for the fee is 12% of the monthly industry volume for each qualifying issue, less the PCX monthly volume for the issue. In order to defray the shortfall fee for Member Firms who are achieving greater than 12% volume in any of their top 120 issues, the Exchange proposes to apply a short fall fee credit of \$0.35 per contract to offset the short fall fee of any Member Firm who achieves a market share of greater than 12% of the national volume in any top 120 equity option issue. The Exchange proposes that the volume base for the credit will be the PCX monthly volume for the issue less 12% of the monthly industry volume for each qualifying issue. The Exchange will apply the credit only to offset an individual Member Firm's obligation to pay a shortfall fee incurred by that particular Member Firm. The Exchange will not apply the credit to offset other fees or allow it to be carried forward or applied retroactively to the shortfall fee for other months.

## (2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)<sup>4</sup> of the Act in general and section 6(b)(4)<sup>5</sup> of the Act, in particular, because 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 foregoing rule change, which establishes or changes a due, fee or other charge imposed by the Exchange, has become effective pursuant to section 19(b)(3)(A)<sup>6</sup> of the Act and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>7</sup> At any time within 60 days of the filing of such 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 the furtherance of the purposes of the Act. For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on May 22, 2003, when Amendment No. 1 was filed.<sup>8</sup>

## 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. 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-2003-19 and should be submitted by June 23, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2003-15170]

### Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Request for public comment on proposed extension of collection of information.

**SUMMARY:** The Department of Transportation is submitting the following request for extension of public information collection to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35.) This notice announces that a request for an extension of the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. Comments should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

**DATES:** Comments must be received on or before August 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kristin Thiriez, NHTSA 400 Seventh Street, SW., Room 6213, NPO.122, Washington, DC 20590. The telephone number for Ms. Thiriez is (202) 366-2837.

### SUPPLEMENTARY INFORMATION:

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> See note 3, *supra*.