

205 Van Buren, Herndon, Virginia 22070 (together, "System" or "Applicants") have filed a joint application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45 and 53.

By prior order dated December 23, 1996 (HCAR No. 26634) ("Order"), the Commission authorized the Columbia System to, among other things, continue the operation of the System money pool ("Money Pool") through December 31, 2001. The Applicants requested that the Commission reserve jurisdiction over Money Pool participation by new direct or indirect subsidiaries engaged in new lines of business that were not included in the Order.

On October 15, 1996, Columbia formed CMI, as a subsidiary of CNS, which is an exempt telecommunications company ("ETC") under section 34(a)(1) of the Act.¹ CMI intends to offer services to personal communications services ("PCS") and other microwave radio service licensees relating to the installation and maintenance of their networks which could include the locating and constructing of antenna facilities, and the maintenance and management of PCS sites for licensees. CMI also intends to offer services by means of radio, leased line, and other transmission facilities to third parties and to CMI's affiliate and associate companies and their respective customers for purposes of enabling them to maintain the reliability of their systems and services. In addition, CMI may also provide to customers by means of radio, leased line, and other transmission facilities, access to electronic bulletin boards, energy trading systems and/or databases that would facilitate customer energy purchases, the nomination of transmission/distribution capacity, and/or the subscription to other services. CMI may also engage in any other activity CNS is permitted to engage in as a result of CNS' determination of ETC status.

When CMI generates cash in excess of its immediate cash requirements, such temporary cash may, at CMI's option, be invested in the Money Pool. CMI would become a Money Pool investor pursuant to an Intra System Money Pool Evidence of Deposit.

CMI may, from time-to-time, require short-term funds to meet normal working capital requirements. It is proposed that CMI would borrow such short-term funds from the Money Pool. The loans to CMI through the Money Pool will be made pursuant to a short term grid note. The short-term grid

notes will be due upon demand by the Money Pool investor(s), but in any event will be repaid prior to May 1 of the following calendar year after borrowing.

The cost of money on all short-term advances and the investment rate for moneys invested in the Money Pool will be the interest rate per annum equal to the Money Pool's weighted average short-term investment rate and/or Columbia's short-term borrowing rate. Should there be no Money Pool investments or Columbia borrowings, the cost of money will be the prior month's average Federal Funds rate as published in the *Federal Reserve Statistical Release, Publication H.15 (519)*. A default rate equal to 2% per annum above the pre-default rate on unpaid principal amounts will be assessed if any interest or principal payment becomes past due.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-16085 Filed 6-18-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [61 FR 32668, June 16, 1997]

STATUS: Closed/Open Meetings.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: June 16, 1997.

CHANGE IN THE MEETING: Deletion/Cancellation.

The following items were not considered at the closed meeting held on Monday, June 16, 1997:

Formal order of investigation.
Settlement of administrative proceedings of an enforcement nature.

The open meeting scheduled for Wednesday, June 18, 1997, at 10:00 a.m., has been canceled.

Commissioner Wallman, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942-7070.

Dated: June 17, 1997.

Jonathan G. Katz,
Secretary.

[FR Doc. 97-16219 Filed 6-17-97; 2:14 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38740; File No. SR-PCX-97-18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Pacific Exchange, Inc. Relating to the PCX Application of the OptiMark System

June 13, 1997.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4, notice is hereby given that on June 11, 1997, Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, which Items have been prepared by the self-regulatory organization.¹ 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

Pursuant to Rule 19b-4 of the Act, the Exchange proposes to establish rules for a new exchange facility called the PCX Application of the OptiMark System ("PCX Application" or "Application"). The PCX Application is a computerized, screen-based trading service made available from an electronic communications and information system known as the "OptiMark System"² for the benefit of the

¹ The Exchange originally submitted this filing to the SEC on May 20, 1997. On June 3, 1997, the Exchange submitted Amendment No. 1 to the filing. It was later determined that the rule filing was not complete as a result of the omitted submission of an exhibit containing the required "Completed Notice of Proposed Rule Change for Publication in the Federal Register." The Exchange elected to resubmit the entire filing (received on June 11, 1997). The re-submitted filing incorporates the substance of the June 3, 1997, Amendment No. 1.

² The OptiMark System has been developed by OptiMark Technologies, Inc. ("OTI"), a computer technology firm located in Durango, Colorado, based on certain patent-pending market restructuring technology referred to as "OptiMark™." The PCX Application is expected to be one of several different trading services based on that technology that will be made available from the OptiMark System for other exchanges and markets in the future. OTI expects its wholly-owned subsidiary, OptiMark Services, Inc. ("OSI"), a

¹ FCC Release No. DA 96-1307 (August 15, 1996).

Exchange members and their customers. It will provide automatic order formulation, matching, and execution capabilities in the equity securities listed or traded on the Exchange (collectively, "PCX Securities"). Similar to other proposals in the past to accommodate new forms of trading involving stock baskets and index derivatives, the Exchange believes that the proposed facility will meet institutional investors' growing demand for a new secure medium of trading that may be utilized in addition to (but not in lieu of) the traditional continuous auction facilities of the Exchange. Moreover, because the PCX Application will be an additional trading service available for the Exchange Specialists and floor brokers to utilize in satisfying their existing customer interest, retail investors also are expected to benefit from the PCX Application.

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

1. Purpose

The purpose of the proposed rule change is to establish rules for the PCX Application, a new trading service that may be used, in addition to the traditional floor facilities, to buy and sell the PCX Securities.³ The Application will allow the PCX members and their customers to submit anonymously from their own computer terminals, without ever revealing their trading strategies, visual depictions of trading interest to the OptiMark System.

registered broker-dealer, to be responsible for operating portions of the PCX Application for the Exchange and delivering the trading service to the Exchange's members and their customers. OTI is licensing the OptiMark System to OSI for purposes of the PCX Application.

³ This rule filing addresses trading in the PCX Securities only. If and when the Application extends in the future to options or other types of securities listed or traded on the Exchange, an appropriate rule change will be filed with the Securities and Exchange Commission.

At specified times during the trading day, the OptiMark System will conduct certain trade optimization calculations against such expressions of interest to identify specific orders capable of execution. All such orders as formulated by the OptiMark System will be automatically executed on the Exchange, except to the extent that they may be executed on other market centers through the Intermarket Trading System ("ITS").

The Exchange proposes to offer this new trading service as an additional exchange facility available for use by its members and their customers. The Exchange believes that the OptiMark System represents a significant step forward in the development of computer technology to receive and process complex sets of information from investors. By utilizing a trading service based on such technological innovation, investors will be able to express fully their trading strategies without fear of provoking an unfavorable price reaction. In the Exchange's view, the PCX Application thus will result in increased total liquidity in the market as more and more investors begin to express the true extent of their trading interest. Further, by enabling retail order flow to interact with such newly expressed interest while preserving the integrity of the Exchange's auction-pricing mechanism, the PCX Application is expected to enhance the capacity, efficiency and fairness of the overall marketplace to the advantage of both small and large orders.

2. Description of How the PCX Application Operates

The PCX Application is being developed jointly by the Exchange and OTI. It represents one specific trading service made available from the OptiMark System to be utilized by the Exchange members and their customers in the manner described below:

Proposed Method of Operation

At the outset, it should be noted that the PCX Application is modular in nature. Two distinct operations will be involved in running the Application: (i) the central information processing system and related administrative and communications terminal network of the OptiMark System, which includes such physical infrastructure as computers performing the functions of collecting data, processing it, logging activities and switching messages from and to other systems and carriers, as well as the communication network linking such computers with customer terminals; and (ii) the computer hardware and software needed

(collectively, the "PCX Interfaces") for the OptiMark System to communicate with the PCX's computerized order system (including any terminals in use by the PCX Specialists or floor brokers). The Exchange will continue to operate its electronic linkages with the ITS, Consolidated Quote System ("CQS"), and the Consolidated Tape System ("CTS"), as they currently exist.

The Exchange will have direct ownership of and control over the PCX Interfaces. The OptiMark System will provide such electronic communications and information services needed for the PCX Application as described herein. From time to time, various functionalities of the computer services provided by the OptiMark System will be modified to allow such system improvement and enhancement as may be deemed appropriate or necessary. The Exchange will assure that, at all relevant times, the material terms and conditions of the trading service offered hereby as a facility of the Exchange, will comply fully with the applicable rules of the Exchange.

Access to the PCX Application

The PCX Application will be available to all members of the PCX and, only through them, to non-members such as institutional investors and other non-member broker-dealers. Each interested member and non-member customer will be eligible to enter into a subscription agreement ("User Agreement") with OTI to establish an appropriate basis on which to communicate with the OptiMark System and also to execute an addendum to the User Agreement with OSI authorizing the delivery of the trading service made available from the OptiMark System.

The OptiMark System subscribers ("User") will log in from their own computer terminals and communicate with the OptiMark System over any customary commercial information services and network of their choice (such as Dow Jones Markets). Those Users that serve as Specialists and floor brokers on the Exchange also will be able to communicate with the OptiMark System from certain floor-located computer terminals as discussed in more detail below. As specified in the User Agreement, appropriate security codes and protocols will be required to log in to the OptiMark System. Once logged in, Users with authorized access to the PCX Application will be able to utilize the specific trading service offered by the Exchange as a new facility, by submitting certain expressions of their trading interest in a PCX Security to the OptiMark System. Users will be responsible for any and all

of such expressions and any other messages submitted to the OptiMark System under their passwords and security codes.

Each member of the Exchange will be granted access to the PCX Application directly as a User. Any and all orders formulated and matched by the OptiMark System based on the expressions of trading interest received from a member User will be automatically routed, executed and reported in that User's name. Each such member User will be responsible for all transactions resulting from the PCX Application for its own or customer accounts in the same way as it currently is for more traditional transactions on the floor.

Non-member Users, on the other hand, will be required to designate in advance member firms ("Designated Broker") that will authorize their access to the PCX Application. Under a non-member's agreement with a Designated Broker ("Give-Up Agreement"), the Designated Broker will accept responsibility for that non-member User's transactions and provide a written statement to the Exchange to that effect. Under the Designated Broker's agreement with OSI ("Transmission Consent Agreement"), the Designated Broker will authorize any and all orders formulated and matched by the OptiMark System based on the expressions of trading interest received from the non-member User to be automatically routed, executed and reported in the Designated Broker's name. Both agreements must be in force before any non-member User may be given access to the PCX Application. At a minimum, the provisions in these Agreements will include any credit limit that may be imposed by a Designated Broker (or its clearing broker if applicable) on a non-member User;⁴ the Designated Broker's understanding that it is responsible for the non-member User's transactions; and such other terms and conditions that may be agreed to from time to time.

Entry of Profiles

One of the most innovative features offered by the OptiMark System to the financial community is the ability to depict complex trading strategies in a visually intuitive way. A User will submit an expression of its trading

interest in the form of a satisfaction profile ("Profile") that shows that the User's degree of satisfaction or willingness (expressed as a number between zero and one) to trade at each coordinate of the price/size grid. Instead of being limited to specifying a single price and size, a User thus may depict a varying degree of its trading preferences, encompassing a wide range of prices and sizes, in a Profile. To simplify and enhance the User's ability to define and enter Profiles, sophisticated graphical interfaces and software that operate under such operating systems as Microsoft Windows (3.1 through NT), OS/2, Sun Solaris, and AIX will be offered.

The price/size grid over which Profiles are defined will be appropriately unitized into individual coordinates. Specifically, the price axis will be divided into the minimum trading increments in the relevant security being traded.⁵ The size axis, on the other hand, will be divided into 1,000 share increments. A User may create a three-dimensional Profile over each coordinate in the desired region of the price/size grid by indicating a degree of willingness (a "satisfaction value") to trade at that coordinate. Such willingness to trade or satisfaction value may range from the most satisfactory (i.e., "1" satisfaction value) to a cut-off point at which a transaction at that price and size becomes undesirable (i.e., "0" satisfaction value).

In this regard, the delineation of the size axis into 1,000 share increments for purposes of defining a Profile should be distinguished from the minimum units of trading in the PCX Application, which are in round lots. By way of example, consider a User seeking to submit a buy Profile for 4,100 shares that shows a 100% willingness to trade at the price of 20, decreasing to no willingness as the price reaches 22. Because of the 1,000 share increments on the size axis, the User's interest in excess of 4,000 shares would be reflected in the next available coordinate size—5,000. To draw this particular Profile on the grid, therefore, the User would assign the satisfaction value of 1 to all the coordinates with the associated size of 5,000 shares or less and price of 20 or below. As the associated price increases from 20 to 22, the satisfaction value of the relevant coordinates would decrease steadily down to 0. Of course, any such visual rendition involving the grid size of

5,000 shares does not mean that the User actually would receive a 5,000 share trade in excess of the desired amount, because the Profile would contain the appropriate User instruction to limit the transaction size to 4,100 shares.

Indeed, each User may specify, with respect to each Profile submitted, an associated maximum quantity of shares in any round lot multiples starting at 1,000 shares; provided, however, those Profiles submitted by the PCX Specialists as discussed below and certain system-generated CQS Profiles (as defined later) will each have such associated round lot size as reflected in the relevant limit order book or quotation, which may be less than 1,000 shares. In addition, Users may, at their option, set boundary conditions on a Profile to restrict the total number of shares that may be purchased or sold within any particular price or size range. Similarly, Users may, at their option, place restrictions on any potential purchase or sale of shares through the ITS.⁶

The OptiMark System will perform the necessary credit verification procedures on each Profile submitted by a non-member User. Such procedures will ensure that the maximum absolute dollar value of each Profile received by the OptiMark System when added to the non-member Users' current credit usage, is consistent with the applicable credit limits. All Profiles not meeting the credit validation requirement will be deactivated.

Users will submit Profiles by means of telecommunications access services of the OptiMark System. All Profiles thus received from a User will be treated confidentially and may be viewed only by that User. Unlike orders found in the Exchange's traditional floor facilities, Profiles will not be widely disseminated to elicit any trading interest when they are received. Instead, they will be simply logged and maintained by the OptiMark System until they are centrally processed. Accordingly, Profiles will not be executable outside of the specified times at which the OptiMark System conducts certain trade optimization calculations. As a specialized form of trading interest contingent upon such periodic occurrences, Profiles as received by and kept within the OptiMark System will have no standing against orders on the floor and no bearing on the Exchange's traditional auction-pricing mechanism.

⁴ A non-member User's credit limits, as they may be established from time to time by a Designated Broker (or its clearing broker if applicable), will be programmed into the OptiMark System. In addition, the Designated Broker will be notified as its potential exposure to its customers, individually or in the aggregate, approaches the established credit limits.

⁵ PCX notes that the current increment is $\frac{1}{8}$ of a dollar for most securities, but may be subject to change based upon recent filings that move to $\frac{1}{16}$ of a dollar, and depending on any possible change to decimalization.

⁶ The Commission notes that the current proposal does not address how orders entered into the OptiMark System would comply with the short sale rule under the Exchange Act, 17 CFR 240.10a-1.

In accordance with customary audit trail requirements, all Profiles submitted by Users will be appropriately marked as proprietary or agency. In addition, each will be time-stamped with a unique serial number when received by the OptiMark System. Users may revise or cancel their own Profiles at any time prior to commencement of the next scheduled central processing. Because it will be important for Users to be able to adjust their outstanding Profiles in a timely manner in response to sudden market developments, such adjustments will be processed as rapidly as computationally feasible so as to take effect against any central processing scheduled to take place more than one second after receipt. In general, submitting a revised Profile will result in a new time stamp, unless the only change made is a reduction in the maximum quantity of shares previously specified that may be bought or sold.

All Users will be held responsible for the terms and conditions contained in each Profile received from them. Each will assume any and all responsibility for canceling or revising its Profile. Users may specify in advance whether to cancel their outstanding Profiles or to keep such Profiles active in the event of an unexpected interruption experienced in their own telecommunications linkage to the OptiMark System. If Users decide to keep their Profiles active, they will be accountable, at all relevant times, for any and all transactions resulting from the PCX Application based on such Profiles, notwithstanding any communication interruptions.

Because the OptiMark System assures anonymity and confidentiality, it is expected to appeal to institutional investors that often do not reveal their full trading strategies (not even when they remain anonymous) for fear of provoking unfavorable market reaction. The vast majority of Profiles submitted to the OptiMark System will thus reflect new expressions of previously withheld interest covering a wide range of trading possibilities in the price, size and satisfaction continuum. As a result of increased total liquidity, all investors, small or large, simple or sophisticated, are expected to benefit from the availability of the PCX Application.

Interaction With Existing Market Interest

The PCX Application is designed to provide Users with certain automated access to and interaction with quotations emanating from other participating market centers of the ITS. At the specified times during the trading day when central processing by the OptiMark System is scheduled, the

prevailing bid and offer quotations in CQS from each such market that may be reached by ITS, including the Intermarket Trading System/Computer Assisted Execution System interface ("ITS/CAES"), will be transformed into a pair of buy and sell Profiles ("CQS Profiles"). Each CQS Profile will have, for the relevant limit price and size, a satisfaction of 1 for all the corresponding coordinates in the price/size grid. As discussed in more detail below, creation of these CQS Profiles and their interaction with the Profiles submitted by Users will assure consistency of the PCX Application with the intermarket price protection requirement under the ITS Plan.

The PCX Application is also designed to serve as an additional trading service available for the Exchange Specialists and floor brokers to utilize in handling existing market interest found on the floor today. In their capacity as Users, the Specialists and floor brokers may submit Profiles based on customer limit orders at hand. To this end, the PCX Specialists will be provided with a uniquely designed electronic interface at their posts that will provide simple retrieval instructions to facilitate designation of customer orders on their limit order books for inclusion in the OptiMark System as Profiles. Such an interface also will permit the PCX Specialists to revise and/or cancel the relevant Profile if any of the limit orders thus reflected subsequently becomes executable against some other market interest. The resulting Profiles created from the PCX Specialist's book will be treated the same as any other Profiles submitted by other Users.⁷ Similarly, the Exchange will ensure that floor brokers have the ability to use existing terminals for submission of Profiles, or a number of OptiMark System terminals will be installed on the Exchange's trading floor to allow floor broker Users to submit Profiles at their convenience if they wish to utilize the PCX Application to fill existing customer interest.

Central Processing

All Profiles received by the OptiMark System (including CQS Profiles) for each relevant security will be centrally processed by computer at one or more specified times during the trading day

⁷ Of course, the PCX Specialists also may submit Profiles based on their own proprietary trading strategies, in addition to Profiles reflecting public limit orders on their books. To the extent that a PCX Specialist chooses to represent a proprietary trading interest in its designated security by submitting a Profile, that particular Profile will have lower time priority than that of the Profile submitted by any other User in the security as discussed further below.

in order to generate one or more orders of identified prices and sizes at which execution may occur immediately ("Orders"). As explained further below, such processing will involve a series of high-speed calculations performed at a rapid pace ("Cycle"). Cycles will be based on an innovative computer algorithm that is designed to measure and rank all relevant mutual satisfaction outcomes by matching individual coordinates from intersecting Buy Profiles and Sell Profiles. The matching algorithm of the OptiMark System is intended to compute optimal trade results for Users based on their different willingness to trade across a wide range of price and size. A buy coordinate and a sell coordinate, each with a full satisfaction value of 1, will be matched, based on price, standing, time of entry, and size. If one or both of coordinates have a partial satisfaction value of less than 1 (but greater than 0), they will be matched, generally based on the joint, mutual satisfaction value—that is, the product of the specific satisfaction values associated with the buy coordinate and sell coordinate. Throughout the Cycle, there will be derived combinations of Orders suitable for immediate execution that achieve the sequentially optimal mutual satisfaction between potential buyers and sellers.

Profiles will be processed, based on the following matching eligibility restrictions and priority principles:

1. *Eligibility Restrictions.* At commencement of a Cycle, each individual coordinate with a non-zero satisfaction value from all buy Profiles and all sell Profiles received by the OptiMark System (including CQS Profiles) in a given PCX Security will be grouped into the Buy Profile Data Base or the Sell Profile Data Base, respectively. Each individual coordinate, no matter how small or large in the corresponding size, from either Profile Data Base will be eligible to be matched with one or more coordinates from the other Profile Data Base and will result in one or more Orders, provided that:

1.1 No buy and sell coordinates may be matched in violation of any applicable User instructions for the respective Profiles, including (a) the maximum quantity associated with the Profile, (b) any boundary conditions restricting the aggregate number of shares that may be bought or sold at a particular price or size range, and (c) the restrictions on any potential sale or purchase of shares through ITS; and

1.2 No buy and sell coordinates may be matched from contra CQS Profiles.

1.3 No buy and sell coordinates may be matched at a price inferior to that of another coordinate with Standing (as defined below) that is eligible for matching. A buy (sell) coordinate has Standing if (a) it has 1 satisfaction value and (b) all coordinates having the same price and a smaller size, down to and including the minimum trading increment (100 shares), are included in the associated Profile at 1 satisfaction value; provided, however, that no coordinate from a Profile containing any boundary conditions restricting the aggregate number of shares that may be bought or sold at a particular size range has Standing. By way of example, each coordinate from a CQS Profile has Standing. By contrast, no coordinate from a Profile submitted by a User on an "all-or-none" basis has Standing.

2. *Priority Principles.* The methods for considering potential matches between buy and sell coordinates in the Profile Data Bases will vary, depending on whether both coordinates represent satisfaction values of 1 or less than 1, resulting in two separate stages of a Cycle:

2.1 *Aggregation Stage.* The OptiMark System initially will process eligible buy and sell coordinates in the Profile Data Bases, each with the full satisfaction value of 1 only. At this stage of calculation ("Aggregation Stage"), smaller-sized coordinates may be aggregated to build sufficient size to be matched with larger-sized coordinates to generate Orders in accordance with the following rules of priority, subject to the applicable eligibility restrictions:

(A) *Price aggressiveness.* A coordinate with a more aggressive price (i.e., a higher price for a buy coordinate and a lower price for a sell coordinate) has priority over coordinates with less aggressive prices.

(B) *Standing.* Among the coordinates with the same price, a coordinate with Standing has priority over all other coordinates without Standing.

(C) *Time of entry.* Among the coordinates with the same price and Standing, the time of the entry of the associated Profile determines relative priority, with earlier submissions having priority. All Profiles submitted by Users will be appropriately time-stamped with a unique serial number when received by the OptiMark System; provided, however, that the effective time of entry for any Profile submitted by a PCX Specialist representing proprietary trading interest in the Specialist's designated security will fall behind that of the Profile submitted by any other User in that security. Because each CQS Profile is generated from the relevant market's most current quotation

prevailing at the time of commencement of a Cycle, its effective time of entry will be later than that of any other Profile submitted by a User.

(D) *Size.* Among the coordinates with the same price, Standing and time of entry, priority for matching is determined by size, with larger sizes having higher priority.

2.2 *Accumulation Stage.* Upon completion of calculation at the Aggregation Stage, the OptiMark System will consider potential matches between eligible buy coordinates and sell coordinates in the Profile Data Bases where one or both parties have less than 1 (but greater than 0) satisfaction values. At this stage of calculation ("Accumulation Stage"), only those buy and sell coordinates with the same associated price and size may be matched to generate Orders in accordance with the following rules of priority, subject to the applicable eligibility restrictions:

(A) *Mutual satisfaction.* A potential match with a higher mutual satisfaction value (the product of the two satisfaction values) takes precedence over other potential matches with lower mutual satisfaction values.

(B) *Time of entry (based on the earlier Profile).* Among the potential matches with the same mutual satisfaction, the match with the earlier time of entry, as determined initially by the effective time of entry assigned to the earlier of the buy and sell Profiles involved (the "earlier Profile"), has priority over other potential matches.

(C) *Size.* Among the potential matches with the same mutual satisfaction and time of entry for the earlier Profile, priority is given to one with a larger size.

(D) *Time of entry (based on the later Profile).* Among the potential matches with the same mutual satisfaction, time of entry (for the earlier Profile), and size, the match with the earlier time of entry, as determined this time by the effective time of entry assigned to the later of the buy and sell Profiles involved (the "later Profile"), has priority over other potential matches.

(E) *Price assignment.* In regard to all remaining ties between potential matches, which will consist solely of the coordinates from a single pair of buy and sell Profiles from two Users that may be matched with the same mutual satisfaction, time of entry and size, but at different prices, priority is given to the match at a price more favorable to the User whose Profile has the earlier time of entry. By way of example, among the last potential matches remaining at the price of 10 and also at 10½, if the sell Profile is the earlier

Profile, then the match will take place at the price of 10½.⁸

For purposes of the PCX Application, the specific times at which Profiles will be centrally processed will vary, depending on the security involved. No Cycle, however, will be scheduled until after the opening of the PCX market for any such security. Similarly, no Cycle will be scheduled at or after the closing of the PCX market for that security. The maximum frequency with which Cycles may take place throughout the trading day will be 90 seconds, while the minimum is once a day.

The exact frequency of Cycles as to any given PCX Security will be determined by OSI, taking into account the general characteristics of the security (e.g., trading volume, price and number of shareholders), the robustness of the associated Profile flow over a period, and the current level of interest expressed by Users. From time to time, OSI may alter the frequency of Cycles in response to subsequent developments in the above-stated market circumstances. Any change in the frequency of Cycles will be effective upon three days' notice to Users in advance. Such notice will be provided electronically, using the same telecommunications linkage and protocols that are used by Users to submit Profiles. At all relevant times, Users will be fully informed as to when the next Cycle in a particular PCX Security will take place.

The Exchange will assure that the frequency of Cycles remain commensurate with the financial community's need and demand for the new trading service, thereby securing the maximum usefulness of the PCX Application for the benefit of its members and their customers. In addition, the Exchange will assure that the PCX Interfaces and the OptiMark System have sufficient capacity in place to handle any material increase in the volume of data prior to implementing a change in the frequency of Cycles.

Order Execution and Reporting

The Exchange will make available the necessary PCX Interfaces to permit Orders in PCX Securities from the OptiMark System to be executed, either on the Exchange or on other market centers participating in ITS through the appropriate Exchange communications linkage. The Exchange will permit one or more pairs of Orders resulting from intersection of the Profiles submitted

⁸The Commission notes that two or more Profiles that are entered into the OptiMark System representing the same number of shares may result in executions at differing prices depending on the other information and conditions entered into the System.

directly by Users (including the PCX Specialists and floor brokers) to be routed and executed on the Exchange. Every trade resulting from executing each such pair of Orders on the Exchange will be appropriately reported, by way of the traditional Exchange linkage to the CTS processor for dissemination, in sequence in which Orders are generated from the Cycle. The Exchange envisions reporting these trades, similar to the way it currently reports other trades in the PCX Securities to the CTS. Accordingly, consistent with the existing reporting practices, in the case of a series of Orders generated from a single Cycle for the same seller with different buyers at an identical price, they will be printed on the Tape as one transaction. In general, the report for any transaction resulting from the PCX Application will not be distinguished on the Tape from the trade report of any other order executed on the floor.

As for one or more Orders representing matched coordinates from CQS Profiles, and other contra Profiles, the Exchange will submit an ITS Commitment reflecting each such Order and seeking execution on other market centers to which the OptiMark System is not directly linked. Every ITS commitment will be sent under the give-up of the relevant Member User or the Designated Broker, by way of the traditional Exchange linkage to the ITS, in sequence in which Orders are generated from the Cycle. Each ITS commitment will be designated for "T-1" (one minute) time period as specified in the ITS Plan. The Exchange envisions sending ITS commitments resulting from the PCX Application in the way other ITS commitments are sent currently from the PCX. Accordingly, ITS commitments resulting from the PCX Application will not be distinguishable from other ITS commitments.

The operation of the PCX Application will not amend the existing Exchange rules for handling traditional trading interest on the equity trading floor. Market orders routed from members will continue to be executed in the same manner. Similarly, ITS commitments received from other ITS participating market centers will be executed against the Exchange's prevailing quotations as specified under the ITS Plan. As for limit orders, the PCX Specialists and floor brokers will be afforded an additional (but not alternative) opportunity to fill such interest through the PCX Application. To the extent that the Exchange Specialists and floor brokers submit Profiles to the OptiMark System based on customer interest in

their books, the handling of any such Profiles and any resulting trade executions through the PCX Application will be fully consistent with the parameters under which public limit orders are filled currently.

Moreover, the PCX Specialists will continue to be responsible for their books to the same degree as they are now. Accordingly, if a Specialist elects not to reflect any customer limit order in the OptiMark System, it will remain accountable for execution at or any more favorable price through the PCX Application, just as it currently is held responsible under similar circumstances. In such a case, consistent with the Exchange's existing floor procedures and practices, the Specialist will be required to satisfy or cause to be satisfied the customer limit order so held, either at the limit price specified, or at any better price at which the Specialist's proprietary interest was satisfied utilizing the PCX Application.

Similarly, the operation of the PCX Application will be fully consistent with the Exchange's intermarket price protection obligations under the ITS Plan. As described above, the OptiMark System incorporates existing market interest emanating from each of the ITS participant markets to which it is not directly linked in the form of CQS Profiles. Because of the rules of priority for considering potential matches between buy coordinates and sell coordinates from any Profiles (including CQS Profiles), all Orders that are priced inferior to the quotations of another market center will be generated and executed on the PCX only upon submission of appropriate ITS commitments seeking to reach such better-priced interest. As a result, the execution of any such Orders on the PCX will not violate the trade-through rule under the ITS Plan.

All Users will be informed of executions that take place against the Profiles that they submitted for their own or customer accounts promptly after the trades occur. If an ITS commitment resulting from the PCX Application is canceled or only partially filled, the OptiMark System will notify the relevant User and restore to the Profile the volume of the security represented by the unfilled Order. All such reports will be sent electronically, using the same telecommunications linkage and protocols that were used to submit the Profiles initially. Unless specified otherwise by non-member Users in advance, executions will not be reported to relevant Designated Brokers until after the close of the trading day in order to limit market impact and

other such adverse effects of non-member Users' trading.

Clearance and Settlement

Transactions in the PCX Securities resulting from the PCX Application, including any ITS commitment that has been sent to another market center and accepted, generally will clear and settle in the same way as other transactions occurring on the Exchange floor, all in accordance with established securities industry practices and through established securities industry systems. All Orders generated by the OptiMark System that are executed on the PCX or another market center through ITS will be each reported and entered into the comparison system on a locked-in basis. Orders generated by the OptiMark System on behalf of a member User and the resulting transactions will be cleared and settled, using that member User's mnemonic (or its clearing broker's mnemonic as may be applicable). Orders generated by the OptiMark system on behalf of a non-member User and the resulting transactions will be cleared and settled, using the appropriate Designated Broker's mnemonic (or its clearing broker's mnemonic as may be applicable).

In no event will the Exchange or any operator, administrator or licensor of the OptiMark system be responsible for any User's failure to pay for the PCX Securities purchased or to deliver the PCX Securities sold. Neither OTI nor OSI will be deemed to be a party to or a participant in, as principal or as agent, any trade or transaction entered into or otherwise conducted by users while using the OptiMark System for the purposes of clearance and settlement.

Hours of Operation

The PCX Application will be initially available for execution of Orders and routings of ITS commitments during the regular PCX hours after the opening and prior to the closing.⁹ In the event of a suspension in trading of a security listed or traded on the Exchange, the Exchange will suspend the related trading activities respecting that security through the PCX Application. In addition, the trading activities through the PCX Application respecting all of the PCX Securities will halt whenever the Chairman or, in the Chairman's absence, Chief Operating Officer, or other PCX Officer(s) as the Chairman may designate, determines that market conditions warrant such a market-wide halt pursuant to the Exchange's Policy Statement on Market Closings. The

⁹The Exchange's hours are currently 6:30 a.m. (P.T.) to 1:50 p.m. (P.T.).

Exchange may suspend the trading activities through the PCX Application relating to one or more PCX Securities at any time upon consultation with OptiMark Technologies, Inc. if deemed necessary and proper to preserve system capacity and integrity.

Audit Trail and Surveillance

The Exchange will maintain, or cause to be maintained, the detailed audit trail of each transaction resulting from the PCX Application, including time sequenced records of Profiles submitted to the OptiMark System, Orders resulting from a Cycle, and their execution and reporting through the PCX facilities. Such data will be stored and preserved for a period of not less than three years, the first two years in an easily accessible place, to assure that the Exchange has sufficient information for exercising its regulatory oversight. In this regard, the Exchange will apply appropriate equity trading surveillance procedures to monitor transactions resulting from the PCX Application.

System Capacity and Integrity

The Exchange believes that the PCX Interfaces and the OptiMark System will provide sufficient capacity to handle the volume of data reasonably anticipated for the PCX Application. The Exchange will have in place security procedures designed to prevent unauthorized access to the PCX Application. The Exchange will assure that reasonable security procedures are in place to safeguard the PCX Interfaces. The Exchange will obtain similar assurances from OTI and OSI that reasonable security procedures are in place to safeguard the OptiMark System and to protect against threats to the proper functioning of the OptiMark System including any networks used by the OptiMark System. The Exchange will also obtain appropriate assurances that proper system reliability and system capacity exists to ensure the integrity of the data handled and timely response of the OptiMark host computers in connection with the PCX Application.

Fees for the PCX Application

Transaction resulting from the PCX Application will be subject to the Exchange's customary assessment of transaction charges and the Commission's exchange transaction fee under section 31 of the Act. As a sponsor of the OptiMark System within the meaning of Rule 17a-23 under the Act, OSI will be compensated by way of usual and customary commissions, on a cents-per-share-filled basis, for delivering to Users the computerized, screen-based trading service made

available from the OptiMark System and offered hereby as a PCX facility. OSI will be paid commissions on a regular basis with respect to the transactions effected by a member User for its own or customer accounts. With respect to the transactions effected by a non-member User, OSI will be paid commissions on a regular basis with respect to the transactions effected by a member User for its own or customer accounts. With respect to the transactions effected by a non-member User, OSI will be paid commissions on a similar basis from the relevant Designated Broker.

3. Applicability of New and Existing PCX Rules

The PCX Application is generally designed to ensure compliance with existing PCX Rules and with other rules and regulations to the extent that they are deemed appropriate. In addition, the Application would be subject to new rules that set forth the operation of the PCX Application as described above.

4. Justification

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act in that the PCX Application is a facility that is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the PCX believes that the proposed rule change is consistent with provisions of Section 11A(a)(1)(B) of Act, which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations.

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

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

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

Within 35 days of the publication of this notice in the **Federal Register** or

within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-PCX-97-18 and should be submitted by July 10, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2949]

State of Minnesota; Amendment #4

In accordance with notices from the Federal Emergency Management Agency, dated May 24 and 30, 1997, the above-numbered Declaration is hereby amended as follows: (1) To establish the incident period for this disaster as beginning on March 21, 1997 and continuing through May 24, 1997, and (2) to extend the deadline for filing

¹⁰ 17 CFR 200.30-3(a)(12).