

requires each specialist firm that receives marketing fees to certify, each month, that it is using the funds in accordance with payment for order flow arrangements in the issues for which the fee was collected. The CHX represents that, if it has reason to believe that a certification has been falsely given, it would review the specialist firm's books and, if the certification were found to be false, initiate appropriate disciplinary action against the firm.

According to the CHX, Mr. Boutte also states that the specialist firms have the right to choose whether a fee is charged or not, giving the impression that the specialist firms have a great deal of power in determining the fee. The CHX asserts that, as described above, it has imposed the \$.01/share marketing fee on all trades that meet the definition of a Subject Transaction in a Subject Issue; a specialist firm may choose to waive the fee in a particular issue altogether, or it may receive the fees that are collected. The CHX notes, however, that a firm cannot choose to have the fee assessed only to certain market makers, nor can it decide to decrease the amount of the fee, whether for some or all market makers in the issue.

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

The foregoing rule change establishes or changes a due, fee, or other CHX charge and therefore has become effective pursuant to section 19(B)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(2) thereunder.<sup>10</sup> At any time within 60 days of the filing of the rule change, the Commission may summarily abrogate the 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 purpose 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. 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 Room. Copies of the filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-2002-19 and should be submitted by August 16, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-18971 Filed 7-25-02; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46239; File No. SR-PCX-2002-38]

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

July 19, 2002.

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 June 28, 2002, 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 PCX. 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 Exchange proposes to amend its Schedule of Fees and Charges by changing the following fees for options: Regulatory fees (FOCUS filing fee, Registered Representative fee, and Designated Examining Authority ("DEA") fee) and Floor and Market Maker fees (floor brokerage fees, telephone fees, the options surcharge, and the LMM shortfall fee). In addition, the Exchange, through its wholly-owned subsidiary PCX Equities, Inc. ("PCXE"

or "Corporation") proposes to amend its Schedule of Fees and Charges to change its Regulatory fees (Focus filing fee, Registered Representative fee, and DEA fee) applicable to ETP Holders and Sponsored Participants that access the Archipelago Exchange ("ArcaEx") trading facility.

The text of the rule change is available at the Office of the Secretary of the Exchange and at the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 make the following changes to its Schedule of Fees and Charges.

###### a. Regulatory Fees

###### i. FOCUS Filing Fee

The Exchange proposes to increase rates for Financial and Operational Combined Uniform Single Report ("FOCUS report") filers from \$25 to \$100 per year. Pursuant to Commission rules, all broker-dealers for which the Exchange serves as the DEA are required to file FOCUS reports with the Exchange either monthly, quarterly or annually. The proposed fee increase is designed to offset the internal staff costs associated with processing hard-copy FOCUS report filings, including the cost of re-typing the report and reconciling any differences. The proposed fee applies to both options and equities.

###### ii. Registered Representative Fee

The Exchange currently charges a \$50 annual fee for new applications, maintenance and transfer of registration status for each Registered Representative and each Registered Options Principal whose firm is a Member Firm of the Exchange. The Exchange proposes to increase the fee to \$55 for options and equities. The Exchange believes this fee change is warranted based upon the Exchange's

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 19b-4(f)(2).

<sup>11</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.

increased costs relating to its regulatory oversight and enforcement program.

### iii. DEA Fees

The Exchange proposes to increase its DEA fee to \$250 per quarter for firms that do not engage in a public business. The Exchange will apply the fee to options and equities in order to offset actual costs incurred in performing its DEA function. The Exchange will not apply the fee to "off floor" trading firms that currently pay a \$2,000 per month examination fee or to Member Organizations that can demonstrate that at least 25% of their income, as reflected on the most recently submitted FOCUS report, was derived from on-floor activities.

### b. Floor and Market Maker Fees

#### i. Floor Brokerage Fees

The Exchange proposes to implement a fixed \$500 monthly options floor brokerage fee. This new fee is intended to recover the cost of providing facilities and services for floor brokers on the Exchange.

#### ii. Telephone Fees

The proposal would increase telephone charges from \$60 to \$95 a month per telephone turret. The rate increase is necessary because the current rates that the Exchange charges for use of its telephone system does not cover the cost necessary to support the system and does not account for cost of dedicated staff to sustain the system. Moreover, the rate increase is intended to recover the Exchange's cost of replacing handsets. Finally, due to firm consolidation on the floor, there has been an increase in uncovered overhead cost that must be redistributed to the Members and Member Organizations.

#### iii. Options Surcharge

The Exchange proposes to increase the Options Surcharge Fee from 2.5% to 5.0%. This charge is intended to recover the Exchange's expenses in providing facilities and services to its Members.

#### iv. LMM Shortfall Fee

The Exchange proposes to increase the current Shortfall Fee threshold from 10% to 12% of the total national market share in an option issue. The fee is assessed at a rate of \$0.35 on the shortfall amount for the top 120 issues (ranked by national volume) that do not meet the market share threshold.<sup>3</sup> This fee change is intended to recover the Exchange's expenses in providing facilities and services to its members.

The Exchange proposes to change only the amounts of the fees that are included in the proposed Schedule of Rates.

### 2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act, in general, and section 6(b)(4) of the Act,<sup>4</sup> 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 PCX believes that the proposed rule change does not 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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(f)(2)<sup>6</sup> thereunder. 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 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 also will be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR-PCX-2002-38 and should be submitted by August 16, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 02-18973 Filed 7-25-02; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Economic Injury Disaster #9Q62]

#### State of Oklahoma

Muskogee and Sequoyah Counties and the contiguous Counties of Adair, Cherokee, Haskell, LeFlore, McIntosh, Okmulgee and Wagoner Counties in the State of Oklahoma; and Crawford and Sebastian Counties in the State of Arkansas constitute an economic injury disaster loan area as a result of the catastrophic collapse of the I-40 Bridge over the Arkansas River on May 26, 2002. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on April 22, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration,  
Disaster Area 3 Office, 4400 Amon  
Carter Blvd., Suite 102, FT. Worth, TX  
76155.

The interest rate for eligible small businesses and small agricultural cooperatives is 3.5 percent.

The number assigned for economic injury for this disaster is 9Q6200 for the State of Oklahoma and 9Q6300 for the State of Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: July 22, 2002.

**Hector V. Barreto,**  
Administrator.

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<sup>3</sup> See Securities Exchange Act Release No. 45351 (January 29, 2002), 67 FR 5631 (February 6, 2002).

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).