

regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. The NASD believes that the reassignment of NNM securities within SOES tier size levels will further these ends by providing an efficient mechanism for small, retail investors to execute their orders on Nasdaq and by providing investors with the assurance that they can effect trades up to a certain size at the best prices quoted on Nasdaq.

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

The NASD believes that the proposed rule change will not result in 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

Comment 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 immediately pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4 because the reranking of NNM securities into appropriate SOES tier sizes was done pursuant to the NASD's stated policy and practice with respect to the administrative and enforcement of an existing NASD rule. Further, in the SOES Tier Size Order, the Commission requested that the NASD provide this information as an interpretation of an existing NASD rule under Section 19(b)(3)(A) of the Act.

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, N.W. Washington, D.C. 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 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 NASD. All submissions should refer to file number SR-NASD-97-43 and should be submitted by July 21, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38766; File No. SR-PCX-97-24]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Change of Closing Time for Auction Market Trading on Its Equity Floors

June 24, 1997.

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 June 12, 1997, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On June 16, 1997, the PCX submitted Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to change its closing time for auction market trading

on its Equity Floors⁴ to 1:30 p.m. (PT). The text of the proposed rule change is available at the Office of the Secretary, 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the propose rule change. The text of these statements may be examined at the places specified in Item III 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 Exchange's auction market trading session currently closes at 1:50 p.m. (PT).⁵ In addition, after the auction market closes, the Exchange operates a Crossing Session between 1:50 p.m. and 2:00 p.m. (PT), which occurs concurrently with Crossing Session I of the New York Stock Exchange ("NYSE").⁶

The Exchange is now proposing to change the closing time for auction market trading on its Equity Floors to 1:30 p.m. (PT). The Exchange will continue to operate its Crossing Session between 1:30 p.m. and 2:00 p.m. (PT) during which time certain designated orders will continue to be eligible for primary market price protection.⁷ The Exchange is proposing to reduce its auction market trading hours because the light trading volume that currently occurs between 1:30 p.m. and 1:50 p.m. (PT) does not justify the operating expenses to the Exchange and its Members during that time period. In this regard, the Exchange does not believe that the change will have a

⁴ The Exchange operates equity trading floors in both San Francisco and Los Angeles.

⁵ See Securities Exchange Act Release No. 29631 (August 30, 1991), 56 FR 46025 (September 9, 1991) (order approving change in close of auction market trading session on the Equity Floors from 1:30 p.m. to 1:50 p.m. (PT) (File No. SR-PSE-91-21).

⁶ See Securities Exchange Act Release No. 29305 (June 13, 1991), 56 FR 29208 (order granting partial approval to File No. SR-PSE-91-21).

⁷ Amendment No. 1 modified the original filing to reflect that PCX's Crossing Session will operate between 1:30 p.m. and 2:00 p.m. (PT) under the proposal, rather than from 1:50 p.m. to 2:00 p.m. (PT), as described in the original filing. See Amendment No. 1, *supra* note 3.

³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated June 13, 1997 ("Amendment No. 1"). In Amendment No. 1, the PCX clarified that its Crossing Session will be operated between 1:30 p.m. and 2:00 p.m. Pacific Time ("PT"), rather than from 1:50 p.m. to 2:00 p.m. (PT), as set forth in the original filing.

negative impact on the ability of investors to access the Exchange's markets.

The Exchange is proposing to add a new Commentary .02 to Rule 4.2 to codify the new closing time. In addition, the Exchange is proposing to modify Rule 5.25(f)(ii), which currently provides, in part, that from 1:00 p.m. to 1:50 p.m. (PT), P/COAST⁸ will act as a routing system and will accept certain designated types of orders. Specifically, the Exchange proposes to change the references to "1:50" to "1:30."

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and Section 6(b)(5),¹⁰ in particular, is that it is designed to promote just and equitable principles of trade.

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. 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, N.W., Washington, D.C. 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 in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-97-24 and should be submitted by July 21, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the PCX's proposed rule change, as amended, and believes, for the reasons set forth below, the proposal is consistent with the requirements of Section 6 of the Act,¹¹ and the rules and regulations thereunder applicable to a national securities exchange.¹² Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act¹³ because it is reasonably designed to promote just and equitable principles of trade.

The Commission believes that, absent any regulatory concerns, the decision to change the Exchange's trading hours is a matter that falls within the business discretion of the PCX. The Commission notes that the Exchange requested approval to extend its trading hours from 1:30 p.m. to 1:50 p.m. in 1991.¹⁴ At that time, the Exchange cited the need for a competitive response to the actions of the NYSE as the rationale underlying its decision to expand its trading hours.¹⁵ In its Order approving the trading hour extension, the Commission stated that it believed that an extension of the auction market trading hours by 20 minutes would "not affect the [PCX's] ability to provide fair and orderly markets or provide for the efficient execution of customer orders."¹⁶ Similarly, the Commission does not believe that reducing the trading hours by 20 minutes will have an adverse affect on the auction market or public customer orders. Moreover, as the volume of trading occurring during that 20 minute time period clearly has failed to meet the PCX's expectations, the Commission believes that it is reasonable for PCX to conclude that it is appropriate to curtail equity trading at 1:30 p.m. (PT). Accordingly, the Commission believes that the proposed changes will facilitate the operation of PCX's Equity Floor and, therefore, the proposed rule change is consistent with Section 6 of the Act.¹⁷

¹¹ 15 U.S.C. 78f.

¹² In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See *supra* note 5.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ 15 U.S.C. 78f.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the PCX plans to shorten its equity trading hours to 1:30 p.m. (PT) effective June 26, 1997. The Commission also notes that the Exchange's members and the public were provided with advance notice of the proposed change in the form of a Regulatory Bulletin issued by the PCX on June 13, 1997. Finally, the Commission notes that the Exchange desires to shorten its trading hours as it is not cost effective for the Equity Floor to operate during that 20 minute time period. The Commission believes that the cost savings that are expected to accrue to the PCX from the shortened trading hours warrant approval of the proposal on an accelerated basis so that the Exchange may benefit from the anticipated cost savings as soon as possible. Therefore, the Commission believes that granting accelerated approval of the proposed rule change, as amended, is appropriate and consistent with Section 6 of the Act.¹⁸

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁹ that the proposed rule change (SR-PCX-97-24), including Amendment No. 1, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Avcenter, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—Order 97-6-24, order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that Avcenter, Inc., is fit, willing, and able to conduct scheduled passenger operations as a commuter air carrier.

DATES: Persons wishing to file objections should do so no later than July 9, 1997.

¹⁸ 15 U.S.C. 78f.

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ 17 CFR 200.30-3(a)(12).

⁸ Pacific Computerized Order Access Securities System. See Securities Exchange Act Release No. 38609 (May 12, 1997), 62 FR 27096 (May 16, 1997).

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(5).