

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 submissions, 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, NW, Washington, DC. Copies of such filing also will be available for inspection and copying at the NASD. All submissions should refer to File No. SR-NASD-98-38 and should be submitted by July 1, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-15419 Filed 6-9-98; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40063; File No. SR-PCX-98-21]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment 1 Thereto by the Pacific Exchange, Inc., Relating to Fines for Disruptive Action on the Options Floor

June 3, 1998.

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 16, 1998, 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, II and III below, which Items have been prepared by the Exchange. On May 28, 1998, the Exchange filed Amendment 1 to the proposal with the Commission.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

PCX is proposing to increase its recommended fines under the Minor Rule Plan ("MRP") for disruptive action involving physical contact between members while on the options trading floor. Proposed new language is in italics; proposed deleted language is in brackets.

#### 6133 Minor Rule Plan

Rule 10.13(a)-(j)—No change.

(k) Minor Rule Plan: Recommended Fine Schedule.

#### (i) Options Floor Decorum and Minor Trading Rule Violations

	Fines		
	1st violation	2nd violation	3rd violation
1.-16. No change			
17. Disruptive action involving physical contact while on the trading floor. (Rule 6.2) .....	\$500.00 1,500.00	\$1,000.00 3,000.00	\$2,500.00 5,000.00
18.-34. No change.			

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

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

#### 1. Purpose

The Exchange is proposing to increase the recommended fines under the MRP<sup>4</sup> for disruptive action involving physical contact between members while on PCX's Options Trading Floor. These fines are currently set at \$500, \$1,000 and \$2,500 for first, second and third

violations, respectively, during a running two-year period. The Exchange is proposing to increase these fines at \$1,500, \$3,000, and \$5,000, respectively.<sup>5</sup> The purpose of the rule change is to deter future incidents of disruptive conduct involving physical contact. The Exchange notes that there has been a moderate increase recently in the number of such cases, and the Exchange intends that the proposed rule change will serve to reverse that trend.

<sup>8</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 1 clarifies the purpose section of the filing by noting that fines over \$2,500 are subject to higher reporting requirements than fines of \$2,500 or less. See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Lisa Henderson, Attorney, SEC, dated May 26, 1998.

<sup>4</sup> Rule 19d-1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for the summary discipline and abbreviated reporting of minor rule violations by exchange members and member organizations. See Securities Exchange Act Release No. 21013 (June 1,

1984), 49 FR 23828 (June 8, 1984) (order approving amendments to paragraph (c)(2) of Rule 19d-1 under the Act). Pursuant to PCX Rule 10.13, the Exchange may impose a fine on any member or member organization for any violation of an Exchange rule that has been deemed to be minor in nature and approved by the Commission for inclusion in the MRP. PCX Rule 10.13(h)-(j) sets forth the specific Exchange rules deemed to be minor in nature.

<sup>5</sup> As noted in PCX Rule 10.13(e), pursuant to Securities Exchange Act Release No. 30958, any person or organization found in violation of a minor rule under the MRP is not required to report such violation on SEC Form BD, provided that the sanction imposed consists of a fine not exceeding

\$2,500 and the sanctioned person or organization has not sought an adjudication, including a hearing, or otherwise exhausted the administrative remedies available with respect to the matter. Accordingly, any fine imposed in excess of \$2,500 will be subject to reporting on SEC Form BD in addition to the immediate, rather than periodic, reporting requirement of Section 19(d)(1) of the Act. See Securities Exchange Act Release No. 32080 (January 22, 1992), 57 FR 3452 (noting that fines in excess of \$2,500, assessed under New York Stock Exchange, Inc. ("NYSE") Rule 476A, are not considered pursuant to the NYSE's minor rule violation plan and are thus subject to the current reporting requirements of Section 19(d)(1) of the Act).

## 2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade. In addition, the Exchange believes that the proposal will serve to promote fair and orderly markets on the Options Floor and thereby will serve to protect investors and the public interest.

*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**

Within 35 days of the date of 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 PCX consents, the Commission will:

(A) By order approve such 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, 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 in the Commission's Public Reference Room, 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 PCX. All submissions should refer to File No. SR-PCX-98-21 and should be submitted by July 1, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-15416 Filed 6-9-98; 8:45 am]

BILLING CODE 8010-01-M

**SMALL BUSINESS ADMINISTRATION**

[License No. 08/78-0153]

**Bluestem Capital Partners II, L.P.; Notice of Issuance of a Small Business Investment Company License**

On February 18, 1997, an application was filed by Bluestem Capital Partners II, L.P. at 122 South Phillips Avenue, Suite 300, Sioux Falls, South Dakota 57104, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 08/78-0153 on May 22, 1998, to Bluestem Capital Partners II, L.P., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 22, 1998.

**Don A. Christensen,**

*Associate Administrator for Investment.*

[FR Doc. 98-15353 Filed 6-9-98; 8:45 am]

BILLING CODE 8025-01-P

**SMALL BUSINESS ADMINISTRATION**

[License No. 09/09-0414]

**Critical Capital Growth Fund, L.P.; Notice of Issuance of a Small Business Investment Company License**

On December 29, 1997, an application was filed by Critical Capital Growth Fund, L.P. at 17 East St. Francis Drake, Suite 230, Larkspur, California 94939, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09-0414 on May 4, 1998, to Critical Capital Growth Fund, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1998.

**Harry E. Haskins,**

*Acting Associate Administrator for Investment.*

[FR Doc. 98-15356 Filed 6-9-98; 8:45 am]

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**SMALL BUSINESS ADMINISTRATION**

[License No. 06/06-0315]

**First United Venture Capital Corporation; Notice of Issuance of a Small Business Investment Company License**

On August 27, 1997, an application was filed by First United Venture Capital Corporation, at 1400 West Main Street, Durant, Oklahoma 74701, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06-0315 on May 22, 1998, First United Venture Capital Corporation to operate as a small business investment company.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 17 CFR 200.30-3(a)(12).