

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 NASD Regulation. All submissions should refer to File No. SR-NASD-99-15 and should be submitted by May 17, 1999.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-10423 Filed 4-23-99; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41307; File No. SR-PCX-99-09]

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

April 16, 1999.

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 March 31, 1999, 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. 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 change its Schedule of Fees and Charges for Exchange Services by eliminating customer transaction charges<sup>3</sup> for

Pacific Options Exchange Trading System ("POETS")<sup>4</sup> automated executions and modifying its on-line comparison charges. 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 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 Section 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

**Background.** Currently, the Exchange charges a customer transaction fee of \$0.12 per contract for trade-related transactions, including POETS automated executions (*i.e.*, market and marketable limit orders transacted through POETS). The Exchange also charges an on-line comparison charge of \$0.25 per trade plus \$0.025 per contract for all trades.

**Proposal.** With regard to customer transaction charges, the Exchange proposes to eliminate the transaction charge of \$0.12 per contract on all customer POETS automated executions until such time that Exchange technology can modify the billing system to allow for transaction charges to be applied based on order size (*i.e.*, \$0.00 for orders of 30 contracts or less). The Exchange proposes this change to remain competitive in the market place.

With regard to on-line comparison charges, the Exchange proposes to change its on-line comparison charges to \$0.05 per contract and to eliminate the per trade charge of \$0.25. The Exchange proposes these changes in an effort to simplify the fee schedule and remain competitive.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>6</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

##### B. Self-Regulatory Organizations' 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 were neither solicited nor received.

#### 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f) of Rule 19b-4 thereunder.<sup>8</sup> 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.<sup>9</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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

<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> The Exchange represents that customer transaction charges are fees charged to members. As a result, the Commission notes that, as this filing relates exclusively to member fees this proposed rule change is properly filed under Section 19(b)(3)(A)(ii) of the Act. 15 U.S.C. 78s(b)(3)(A)(ii).

Telephone conversation between Robert P. Pacileo, Staff Attorney, Regulatory Policy, PCX, and Joseph P. Morra, Attorney, Division of Market Regulation, Commission, on April 8, 1999.

<sup>4</sup> POETS is the Exchange's automated options trading systems. See generally Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (January 24, 1990) (Order approving File No. SR-PSE-89-26).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f).

<sup>9</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 number SR-PCX-99-09, and should be submitted by May 17, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-1999-5381]

#### Fiscal Year (FY) 2000 Implementation Guidance for Ferry Boat Discretionary Program Funds

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice; FHWA solicitation memorandum for FY 2000 funds; request for comments on selection criteria for FY 2001 and beyond.

**SUMMARY:** This document provides implementation guidance on the Ferry Boat Discretionary (FBD) program for FY 2000 and beyond. A memorandum on this topic was issued to division offices soliciting candidate projects from State transportation agencies for FY 2000 Ferry Boat Discretionary (FBD) funding. The memorandum also contains information on the selection criteria used by the FHWA in evaluating candidate projects. This document seeks comments from all interested parties on the selection criteria and their continued use by the FHWA for FY 2001 and beyond.

**DATES:** Comments on the selection criteria for FBD funding for FY 2001 and beyond must be received on or before June 25, 1999.

**ADDRESSES:** Your signed, written comments on project selection criteria for FBD funding for FY 2001 and beyond must refer to the docket number appearing at the top of this document and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All

comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments should include a self-addressed, stamped envelope or postcard.

Applications for candidate projects for FY 2000 funding should be submitted to the FHWA Division Office in the State of the applicant in accordance with the guidance provided in the solicitation memorandum.

**FOR FURTHER INFORMATION CONTACT:** Jack Wasley, Office of Program Administration, (202) 366-4658; or Wilbert Baccus, Office of the Chief Counsel, (202) 366-1396; Federal Highway Administration, 400 Seventh Street SW., Washington D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://www.dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the **Federal Register's** home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

The solicitation memorandum is available on the FHWA web site at <http://www.fhwa.dot.gov/discretionary>.

##### Background

On March 4, 1999, the FHWA issued a memorandum to its division offices, located in each State, the District of Columbia and Puerto Rico, soliciting from the State transportation agencies candidate projects for FY 2000 FBD funding. This memorandum is published for informational purposes. The memorandum contains information on the FBD program, eligible activities, the application process, and the selection criteria used by the FHWA in evaluating candidate projects.

Also, the purpose of this document is to invite comments on the selection criteria used by the FHWA for evaluating candidate projects for FY 2001 and beyond. The attachment to the

March 4, 1999, memorandum presents the selection criteria that the FHWA will be using for FY 2000. These criteria reflect areas which are given preference when evaluating candidate projects; however, any project submitted by a State transportation agency which meets the eligibility requirements for this discretionary program can potentially be selected for funding. These are the same general selection criteria that the FHWA has used for several years to evaluate candidates for this discretionary program. Occasionally, a selection criterion may be added for an individual year that reflects a special emphasis area, but for the most part the selection criteria have remained unchanged.

The FHWA plans to continue to use these same basic selection criteria for FY 2001 and beyond for this discretionary program. However, before doing so, the FHWA is interested in the views of the States or others on these selection criteria. Accordingly, comments are invited to this docket on the selection criteria that the FHWA will use for the FBD program for funding available during FY 2001 and beyond.

Publication of the implementation guidance for the ferry boat discretionary program satisfies the requirement of section 9004(a) of the TEA-21 Restoration Act, Pub. L. 105-206, 112 Stat. 685, 842 (1998).

**Authority:** 23 U.S.C. 129(c) and 315; 49 CFR 1.48.

Issued on: April 16, 1999.

**Gloria J. Jeff,**

*Federal Highway Deputy Administrator.*

The text of the FHWA solicitation and implementation guidance memorandum follows:

**Action:** Ferry Boat Discretionary (FBD) Program, Request for Projects for FY 2000 Funding, March 4, 1999 (Reply Due: July 1, 1999)

Henry H. Rentz for Vincent F. Schimmoller, Program Manager, Infrastructure, HIPA, Division Administrators

Section 1207 of the Transportation Equity Act for the 21st Century (TEA-21) reauthorizes the funding category for the construction of ferry boats and ferry terminal facilities created by section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991. With this memorandum, we are requesting submission of eligible candidate projects for FY 2000 FBD funding.

The TEA-21 authorizes \$38 million for the FBD program for FY 2000. The TEA-21 requires that \$20 million be set-aside for marine highway systems that

<sup>10</sup> 17 CFR 200.30-3(a)(12).