

## II. Description of the Proposal

The proposed rule change will modify the current requirement in PCX Rule 12.1 that any employment-related disputes between a registered representative and a member or member organization be addressed by arbitration. The proposal provides that claims related to employment, including sexual harassment, or any discrimination claim in violation of a statute, are eligible for arbitration at the Exchange only if the parties agree to arbitrate the claims after they arise.

The proposed rule change is the most recent in a series of rule changes implemented by self regulatory organizations ("SROs") which modify or clarify exchange rules with regard to arbitration of employment related claims, including claims of sexual harassment.<sup>4</sup> The proposed rule change is substantially similar to the rule changes the Commission approved for the other SROs; however, PCX has broadened the scope of the previously approved rule changes, to mandate that all claims related to employment, including sexual harassment, or any discrimination claim in violation of a statute, are eligible for arbitration at the Exchange only if the parties agree to arbitrate the claims after they arise.

## III. Discussion

Under the Act, SROs are assigned rulemaking and enforcement responsibilities to perform their role in regulating the securities industry for the protection of investors and other related purposes. Pursuant to section 19(b)(2) of the Act,<sup>5</sup> the Commission is required to approve an SRO's proposed rule change if the Commission determines that the

<sup>4</sup> See Exchange Act Release No. 40109 (June 22, 1998) 63 FR 35299 (June 29, 1998) (National Association of Securities Dealers ("NASD") no longer requires associated persons, solely by virtue of their association or registration with the NASD, to arbitrate claims of statutory employment discrimination); Exchange Act Release No. 40858 (December 29, 1998) 64 FR 1051 (January 7, 1999) (New York Stock Exchange removes mandatory arbitration of statutory employment discrimination claims from its rules, allowing arbitration only pursuant to a post-dispute agreement to arbitrate); Exchange Act Release No. 40861 (December 29, 1998) 64 FR 1039 (January 7, 1999) (Boston Stock Exchange excludes from mandatory arbitration any employee dispute between a registered representative or associated persons and a member organization alleging employment discrimination in violation of a statute, including sexual harassment, unless the parties agree to arbitrate the claim after it has arisen); Exchange Act Release No. 41080 (February 22, 1999) 64 FR 10033 (March 1, 1999) (Chicago Board Options Exchange adopts new Interpretation .03 under Exchange Rule 18.1 to clarify that a claim involving employment discrimination, including sexual harassment, is not appropriate for mandatory arbitration at the Exchange).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

proposal is consistent with applicable statutory standards. These standards include section 6(b)(5) of the Act,<sup>6</sup> which provides that the Exchange's rules must be designed to, among other things, "promote just and equitable principles of trade," and "protect investors and the public interest." Section 6(b)(5) also provides that the Exchange's rules may not be designed to "regulate \* \* \* matters not related to the purposes of the [Exchange Act] or the administration of the [Exchange]."

The Exchange's proposed rule change is consistent with section 6(b) of the Act in general, and furthers the objectives of section 6(b)(5) of the Act in particular, in that it is designed to promote just and equitable principles of trade and the protection of investors and the public interest by improving the administration of an impartial arbitration forum for the resolution of disputes between members and persons associated with members. Furthermore, the proposed rule change is intended to provide uniformity throughout the securities industry as other SROs have modified or clarified their rules with regard to the arbitration of employment related claims. It is reasonable for the Exchange to make a policy determination that in this unique area it will not, as an SRO, permit the use of arbitration unless there is a post-dispute agreement. It is also not improper under the Act for one SRO's policy determination to differ from that of another.

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>7</sup> that the proposal, SR-PCX-99-02, be and hereby is approved.<sup>8</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### Wisconsin State Advisory Council; Public Hearing

The U.S. Small Business Administration Wisconsin State Advisory Council, located in the geographical area of Milwaukee,

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

Wisconsin, will hold a public meeting from 12:00 p.m. to 1:00 p.m. May 20, 1999 at Metro Milwaukee Area Chamber (MMAC) Association of Commerce Building; 756 North Milwaukee Street, Fourth Floor, Milwaukee, Wisconsin to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Yolanda Lassiter, U. S. Small Business Administration, 310 West Wisconsin Avenue Milwaukee, Wisconsin 53203; (O) 414 297-1092; (F) 414 297-3928.

**Shirl Thomas,**

*Director, Office of External Affairs.*

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## DEPARTMENT OF STATE

[Public Notice 3050]

### Proposed Information Collection

**AGENCY:** Department of State.

**ACTION:** 60-Day notice of proposed information collection; Foreign Service written examination registration form.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

**Type of Request:** Regular submission (we are also submitting an emergency approval request).

**Originating Office:** PER/REE.

**Title of Information Collection:** Foreign Service Written Examination Registration Form.

**Frequency:** Annually.

**Form Number:** NA.

**Respondents:** Individuals who wish to register for the Foreign Service Written Examination.

**Estimated Number of Respondents:** 10,000.

**Average Hours Per Response:** 1/6.

**Total Estimated Burden:** 1,666 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the