

The Exchange proposed to amend its filing requirements so that a company that electronically files documents with the Commission will be deemed to have satisfied its comparable filing requirements with the PCX.

Specifically, the Exchange proposed that materials required to be filed pursuant to the Act, pursuant to PCX Rule 3.3(t)(1)(ii), except for Form 8-Ks and Preliminary Final Proxy Materials, be considered effectively filed with the Exchange upon filing such documents through the SEC's EDGAR system. The Exchange proposed to continue to require that listed issuers manually file one copy of all Form 8-Ks and Preliminary Final Proxy Materials with the PCX in order to be able to appropriately monitor significant corporate events.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, the Commission finds that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5)⁶ of the Act. Section 6(b)(5) of the Act requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

Specifically, the Commission believes that the proposed rule change will aid companies listing on the PCX by streamlining the requirements associated with making routine financial reports available. By permitting these companies to satisfy their obligation to provide financial reports through the EDGAR system, PCX listed companies are relieved of the burden and costs of providing separate paper copies of their SEC filings to the Exchange. Because filings made through EDGAR are available to the public, there is no need to provide additional copies to the Exchange. The proposed rule change is especially appropriate because it reduces the reliance on paper submissions and promotes the use of

⁵ In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The proposed rule change should improve efficiency and competition because it reduces duplicative filing burdens and reduces costs for listing companies. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78o-4(b)(2)(C)

technology in a regulatory framework. The Commission also believes that requiring companies to provide paper copies of certain filings is appropriate because the Exchange should receive affirmative notification in these cases. The Commission believes that the proposed rule change balances the goal of efficiency with the Exchange's interest in obtaining certain information regarding the activities of listed companies.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2)⁷ of the Act, that the proposed rule change (SR-PCX-99-49) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-42419; File No. SR-PCX-99-39, Amendment Nos. 1 and 2)

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 1 and 2 to the Proposed Rule Change by the Pacific Exchange, Inc. Creating PCX Equities, Inc.

February 11, 2000.

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 November 24, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") Amendment No. 1 to the proposed rule change, File No. SR-PCX-99-39 as described in Items I, II and III below, which Items have been prepared by the Exchange.³

¹ 15 U.S.C. 78s(b)(2).

² 17 CFR 200.30-3(a)(12).

³ 15 U.S.C. 78s(b)(1)

⁴ 17 CFR 240.19b-4.

⁵ See Letter from Brandon Becker, Wilmer, Cutler, & Pickering, to Belinda Blaine, Associate Director, Division of Market Regulation ("Division"), Commission, dated November 24, 1999 ("Amendment No. 1"). On January 10, 2000, the Exchange submitted the Form 19b-4 for Amendment No. 1 to the proposed rule change. See Letter from Kathryn Beck, Senior Vice President, General Counsel and Corporate Secretary, PCX, to Kelly Riley, Attorney, Division, dated January 7, 2000. In Amendment No. 1, the Exchange submitted: (1) a letter amendment that changes provisions of the proposed rule language; (2) a summary of the proposed changes for implementing the PCX restructuring (Attachment No. 1 to

The Exchange submitted the proposed rule change to the Commission on October 7, 1999, which was published in the **Federal Register** on December 6, 1999 ("Original Notice")⁴ On January 10, 2000, the Exchange submitted Amendment No. 2 to the proposed rule change.⁵ The Commission is publishing this notice to solicit comments on Amendment Nos. 1 and 2 to the proposed rule change from interested persons.

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

As described in the Original Notice, the PCX proposes to create a Delaware Stock corporation to be called PCX Equities, Inc. ("PCX Equities"), which will be a wholly-owned subsidiary of the PCX, and to transfer to PCX Equities all of the assets and liabilities that solely support the equities trading business and/or equities clearing business of the PCX. The PCX also proposes to authorize PCX Equities to issue Equity Trading Permits ("ETPs") and Equity Automated Systems Access Permits ("Equity ASAPs") that will entitle holders of the permits to trade equity securities at the new PCX Equities. PCX proposes to amend the Original Notice. The amended proposed rules for implementing the restructuring, including (1) the amended rules for PCX Equities, Inc.; (2) the amended rules for the PCX; and (3) the Plan of Delegation of Functions from the PCX Parent to PCX Equities, are available for inspection at the places specified in Item IV below.

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

In its Original Notice 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.⁶ The Exchange has prepared summaries, set forth in sections A, B, and C below, of

Amendment No. 1); (3) a PCX Equities, Inc. Cross Reference Table (Attachment No. 2 to Amendment No. 1); and (4) The Plan of Delegation of Functions by the Pacific Exchange, Inc. to PCX Equities, Inc. (Attachment No. 4 to Amendment No. 1).

⁴ See Securities Exchange Act Release No. 42178 (November 24, 1999), 64 FR 68136.

⁵ See Letter from Brandon Becker, Wilmer, Cutler & Pickering, to Nancy J. Sanow, Senior Special Counsel, Division, SEC, dated January 7, 2000 ("Amendment No. 2"). In Amendment No. 2, the Exchange submitted answers to questions posed by the Division and made substantive to the proposed rule language, as amended by Amendment No. 1.

⁶ See *supra* note 4.

the most significant aspects of Amendment Nos. 1 and 2 to the proposed rule change.

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

1. Purpose

Summary of Proposed Rule Changes for Implementing the PCX Restructuring. The following summarizes the proposed PCX Equities rules as well as the proposed changes to the PCX Constitution and rules related to the restructuring of PCX. Part 1 contains a description of those rules proposed by PCX Equities to regulate the business conduct and practices of its ETP Holders, ETP Firms, Equity ASAP Holders, and associated persons. Detailed descriptions of those rules that reflect a significant departure from the pre-existing PCX Rules are provided. In addition, for proposed rules that are closely patterned after existing PCX rules, the Exchange indicates which PCX rule was the model and notes that only minor conforming word changes were made. Similarly, Part 2 provides a summary of changes to the PCX Constitution and Rules. The complete text of the proposed rules for PCX Equities and the changes to the PCX Constitution and Rules are available for inspection at the places specified in Item IV below.

a. *PCX Equities, Inc.* Following the restructuring, PCX Equities will adopt, subject to certain revisions, the applicable trading rules and standards of the PCX as they relate to the current equity trading business. Proposed Rules 1 through 3, which relate to qualifications for ETPs, Equity ASAPs and corporate governance, and Rule 10, which relates to disciplinary procedures, reflect significant departures from existing PCX Rules. The remaining rules are substantially similar to the current rules, unless noted otherwise. A discussion of the proposed PCX Equities rules follows.

Rule 1—Definitions

Proposed Rule 1 defines certain terms and references (e.g., ETP Holder) used throughout the rules, and is intended to ensure uniformity in the use of such terms. In conjunction with the restructuring and the issuance of the equity trading permits, the PCX has developed the following new terms and incorporated them into Proposed Rule 1:

Proposed Rule 1.1(f)—The term “Corporation” shall mean PCX Equities, Inc., as described in the Corporation’s

Certificate of Incorporation and the PCX Equities Bylaws.

Proposed Rule 1.1(i)—The term “Equity ASAP” shall refer to a permit issued by the Corporation for effecting approved securities transactions principally over an electronic or automated system access program such as P/COAST, or any other electronic or automated trading system approved by the Corporation. Except as contemplated by proposed Rule 2.16(a)(3), an Equity ASAP does not confer trading privileges on any other trading facility of the Corporation, including but not limited to the trading floor, and therefore does not confer an Equity ASAP Holder with rights to employ or utilize trading floor specialists or floor brokers.⁷

Proposed Rule 1.1(j)—The term “Equity ASAP Holder” shall refer to a sole proprietor, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an Equity ASAP or an allied person of such an organization.⁸ An Equity ASAP Holder shall agree to be bound by the Certificate of Incorporation, Bylaws and Rules of the Corporation, and by all applicable rules and regulations of the SEC. An Equity ASAP Holder shall not have ownership or distribution rights in the Corporation. An Equity ASAP Holder will have limited voting rights to nominate two members to the Corporation’s Board of Directors and one member to the Board of Governors of the PCX Parent. An Equity ASAP Holder will have status as a “member” of the PCX Parent as that term is defined in Section 3 of the Act.⁹

Proposed Rule 1.1(k)—The term “ETP” shall refer to an Equity Trading Permit issued by the Corporation for effecting approved securities transactions on the Corporation’s trading facilities. An ETP may be issued to a sole proprietor, partnership, corporation, limited liability company or other organization, which is a registered broker or dealer pursuant to Section 15 of the Act,¹⁰ and which has been approved by the Corporation.¹¹

Proposed Rule 1.1(l)—The term “ETP Holder” shall refer to a natural person, in good standing, who has been issued an ETP, or has been named as a Nominee by an ETP Firm. An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the

Act,¹² or a nominee or an associated person of a registered broker or dealer who has been approved by the Corporation to conduct business on the Corporation’s trading facilities.¹³ An ETP Holder shall agree to be bound by the Certificate of Incorporation, Bylaws and Rules of the Corporation, and by all applicable rules and regulations of the SEC. An ETP Holder shall not have ownership or distribution rights in the Corporation. An ETP Holder will have limited voting rights to nominate two members to the Corporation’s Board of Directors and one member to the Board of Governors of the PCX Parent. An ETP Holder will have status as a “member” of the PCX Parent as that term is defined in Section 3 of the Act.¹⁴

Proposed Rule 1.1(m)—The term “ETP Firm” shall refer to a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing who holds an ETP or upon whom an individual ETP Holder has conferred trading privileges on the Corporation’s trading facilities pursuant to and in compliance with these Rules. An ETP Firm must be a registered broker or dealer pursuant to Section 15 of the Act.¹⁵ An ETP Firm shall agree to be bound by the Certificate of Incorporation, Bylaws and Rules of the Corporation and by all applicable rules and regulations of the SEC. An ETP Firm shall not have ownership or distribution rights in the Corporation. An ETP Firm will have limited voting rights to nominate two members to the Corporation’s Board of Directors and one member to the Board of Governors of the PCX Parent. An ETP Firm will have status as a “member” of the PCX Parent as that term is defined in Section 3 of the Act.¹⁶

Proposed Rule 1.1(n)—The term “Nominee” shall mean an individual who is authorized by an ETP Firm, in accordance with proposed Rule 2.4, to conduct business on the Corporation’s trading facilities and to represent such ETP Firm in all matters relating to the Corporation. As long as a nominee remains effective, the nominee will have status as a “member” of the PCX Parent as that term is defined in Section 3 of the Act.¹⁷ A nominee shall agree to be bound by the Certificate of Incorporation, Bylaws and Rules of the

⁷ See Amendment No. 2, which clarifies the circumstances when Equity ASAPs may utilize floor traders to execute orders on the trading floor.

⁸ See Amendment No. 2.

⁹ 15 U.S.C. 78c(3)(A).

¹⁰ 15 U.S.C. 78o.

¹¹ See Amendment No. 2.

¹² 15 U.S.C. 78o.

¹³ *Id.*

¹⁴ 15 U.S.C. 78c(3)(A).

¹⁵ 15 U.S.C. 78o.

¹⁶ *Id.*

¹⁷ *Id.*

Corporation, and by all applicable rules and regulations of the SEC.

Proposed Rule 1.1(q)—The term “PCX Parent” shall refer to the Pacific Exchange, Inc., a Delaware corporation and national securities exchange as that term is defined by Section 6 of the Act.¹⁸ The PCX Parent is the sole shareholder of the Corporation.

Proposed Rule 1.1(s)—The terms “self-regulatory organization” or “SRO” shall have the same meaning as set forth in the provisions of the Act relating to national securities exchanges.

Proposed Rule 1.1(t)—The term “Trading Facilities” shall refer to the

Corporation’s Los Angeles and San Francisco trading floors, office space provided by the Corporation to ETP Holders and ETP Firms in connection with their floor trading activities, and any an all electronic or automatic systems access programs provided by the Corporation to ETP Holders, ETP Firms and Equity ASAP Holders.

As noted above, ETP Holders and Equity ASAP Holders will not have ownership or distribution rights in PCX Equities. However, ETP Holders and Equity ASAP Holders will have limited voting rights and may nominate, in accordance with the procedures set

forth in proposed Rule 3.2(b)(2)(C), two members to the PCX Equities Board and one member to the PCX Board of Governors. Unlike current PCX Rule 1.14 governing ASAP members, Equity ASAP Holders will have these limited voting rights.

In addition to the new terminology described above, PCX proposes to include in Proposed rule 1 the current PCX definitions for the terms set forth in the chart below. Subject to minor word changes reflecting the restructuring, the proposed rules in the chart below are substantially the same as the corresponding PCX rules.

Proposed new rule	Current PCX rule
Rule 1.1(a)—Affiliate	Rule 1.1(a)
Rule 1.1(b)—Allied Person	Rule 1.1(b)
Rule 1.1(c)—Approved Person	Rule 1.1(c)
Rule 1.1(d)—Associated	Rule 1.1(d)
Person	
Rule 1.1(e)—Control	Rule 1.1(e)
Rule 1.1(g)—Floor Trader	Rule 1.1(f)
Rule 1.1(h)—Good Standing	Rule 1.1(g)
Rule 1.1(o)—Non Resident	Rule 1.1(m)
Organization	
Rule 1.1(p)—Parent	Rule 1.1(n)
Rule 1.1(r)—Person	Rule 1.1(o)
Rule 1.1(u)—Wholly Owned	Rule 1.1(p)
Subsidiary	

Rule 2—Equity Trading Permits and Equity ASAPs

Proposed Rule 2 describes the application process, the qualification requirements and other requirements for holding an ETP on an Equity ASAP and is similar to the requirements and procedures now described in PCX Rule 1 and certain sections of the PCX Constitution. However, as the Exchange describes below, certain substantive changes have been made to reflect the characteristics of the new ETPs and Equity ASAPs. These substantive changes include the following:

Proposed Rule 2.2—In accordance with proposed Rule 2.2, an ETP may be issued to an individual, partnership, corporation, limited liability company or other organization that is a registered broker-dealer. As discussed under the rule 1 section, an ETP will authorized its holder to trade equity securities on any facility of PCX Equities, including the trading floors, P/COAST or OptiMark, as a registered or competing specialist, floor broker, or order flow firm. An ETP will not confer any rights to trade on the options facilities. Any

ETP Holder that wishes to trade options must be approved for an obtain a PCX membership pursuant to PCX’s standard application procedures.

Proposed Rule 2.3—In order to be consistent with the approach taken with respect to seat ownership, under proposed Rule 2.3(a), all firms that directly own ETPs are required to designate a natural person to hold their ETPs (i.e., the “Nominee” or the “ETP Holder”). Accordingly, whenever an ETP confers the right to vote (e.g., election of the Nominating Committee, as discussed below), it is the ETP Holder, rather than the ETP Firm, which casts the vote. However, pursuant to proposed Rule 2.22(c) (as discussed below), the ETP Firm retains the right to replace the ETP Holder with another qualified nominee employed by the ETP Firm at any time. Therefore, since PCX Equities will use revocable proxies to conduct its votes, ETP Firms will be able to effectively control the voting process with respect to the ETPs they own in the same manner as PCX member firms control the voting process with respect to nominees today.

Proposed Rules 2.4, 2.5 and 2.6—Proposed rules 2.4, 2.5 and 2.6 would alter PCX’s existing member approval process by authorizing the PCX Equities management—in place of a Membership Committee—to approve or reject ETP and Equity ASAP applicants. As described in rule 2.4(g), in the event that an application is rejected by PCX Equities, the applicant will have the opportunity to appeal the decision pursuant to proposed Rule 10. Furthermore, proposed Rule 2.5(b)(10) is being amended to reflect a new PCX Rule (current Rule 1.7(b)(9)) approved by the SEC on September 17, 1999 that will require off-floor traders for which PCX is the Designated Examining Authority to complete the Series 7 Exam.¹⁹ Minor changes in terminology have been made to conform to the proposed restructuring.

Proposed Rule 2.16—Under proposed Rule 2.16. an Equity ASAP Holder may route orders electronically to the PCX Equities’ facilities (e.g., P/COAST). However, the Equity ASAP does not bestow on the holder the right to act in the capacity of a trading floor specialist

¹⁸ 15 U.S.C. 78f.

¹⁹ See Securities Exchange Act Release No. 41881, 64 FR 51822 (September 24, 1999). In Amendment No. 2, the Exchange amended proposed Rule

2.5(b)(10)(A–C) to reflect that the rule applies to Equity ASAPs as well as ETP Holvers.

or floor broker. Like ETPs, Equity ASAPs will not confer any rights to trade on the options facilities. Any Equity ASAP Holder that wishes to trade options must be approved for an obtain a PCX membership pursuant to PCX's standard application procedures.

Proposed Rule 2.21—Pursuant to proposed Rule 2.21, an ETP or Equity ASAP will terminate upon the occurrence of the permit holder's expulsion, suspension without reinstatement, death, declaration of incompetency, dissolution, winding up or other cessation of business. An ETP or Equity ASAP Holder whose trading privileges are terminated must be current in all filings and payments of dues, fees and charges. If the ETP or Equity ASAP Holder fails to be current as required, the Corporation retains jurisdiction over the permit holder until

such time as the permit holder is current.

In addition, when a Nominee of an ETP Firm ceases to be an employee of the ETP Firm, that person shall automatically cease to be a Nominee of the ETP Firm.²⁰ In that event, the ETP Firm may nominate another employee as its nominee ETP Holder. An ETP Firm upon which trading privileges are conferred shall continue to be responsible for all obligations, including, without limitation, dues, fees, and charges imposed by or due to the Corporation.

Proposed Rule 2.22—As described in proposed Rule 2.22(a) and (b), unlike current PCX memberships, ETPs and Equity ASAPs may not be purchased, sold or leased. Therefore, the PCX Rules 1.21 and 1.24 and sections of PCX Rules 1.22 and 1.23 relating to the purchase, sale, or lease of memberships have been

deleted from the PCX Equities rules. Under proposed Rule 2.22(c), the only permissible transfers of ETPs are intra-firm transfers involving nominees employed by the same firm. A new nominee, unless he or she is a previously approved person or approved Allied Person of the ETP Firm, shall provide all information required for the Corporation to conduct an investigation of the nominee prior to his or her approval as a nominee.

Other than the substantive changes discussed above and minor conforming word changes that reflect the restructuring, each section of proposed Rule 2 (except Rule 2.21 and Rule 2.22) is substantially the same as the relevant corresponding PCX Rule or Article. The table below sets forth which PCX Rule or Article was used as a model for each section of proposed Rule 2.

Proposed new rule	Current PCX rule
Rule 2.1—Securities Business	Rule 1.2
Rule 2.2(a)—Qualifications and Application of Individual Applicants	Rule 1.4; Constitution Article VIII, Sec 1(a)
Rule 2.3—Qualification of Firm Applicants	Rule 1.5
Rule 2.4—Application Procedures	Rule 1.6
Rule 2.5—Denial of or Conditions to ETPs and Equity ASAPs	Rule 1.7
Rule 2.6—Publication of Approved ETP and Equity ASAP Applications	Rule 1.8
Rule 2.7—Revocable Privilege	Constitution Article VIII, Sec. 1(b)
Rule 2.8—No Liability for Using Trading Facilities	Constitution Article VI, Sec. 5
Rule 2.9—Corporation Not Bound by ETP Holder, ETP Firm or Equity ASAP Holder Agreements.	Constitution Article VIII, Sec. 1(c)
Rule 2.10—Only ETP Firms and Equity ASAP Holders to Trade Under Firm Name.	Constitution Article VIII, Sec. 1(d)
Rule 2.11—Sole Proprietors and Individual ETP Holders	Rule 1.10
Rule 2.12—ETP Firms and Equity ASAP Holders	Constitution Article VIII, Sec. 8(a)
Rule 2.13	Constitution Article VIII, Sec. 3(a)
Rule 2.14	Rule 1.11, Constitution Article VIII, Sec. 3(c)–(e) and Sec. 8(g)
Rule 2.15	Rule 1.12
Rule 2.16—Terms and Conditions Relating to Equity ASAPs	Rule 1.14
Rule 2.17—Responsibilities of Non-Resident Firms	Rule 1.16
Rule 2.18—Amendments to ETP Firms and Equity ASAP Holder Documents.	Rule 1.17
Rule 2.19—ETP Charges	Rule 1.18
Rule 2.20—Exemption from Registration Requirements	Rule 1.19
Rule 2.23—Employees of ETP Firms and Equity ASAP Holders Registration.	Rule 1.26
Rule 2.24—Trading Floor Employees of ETP Firms	Rule 1.27

Rule 3—Organization and Administration

Proposed Rule 3 is divided into three parts: Part I sets forth the organization and governance structure of PCX Equities. Part II outlines the responsibilities and authority of PCX Equities in the administration, interpretation, and enforcement of rules governing the business conduct and practices of individuals and firms issued ETPs and Equity ASAPs.²¹ Part III addresses the obligations of ETP

Holders, ETP Firms, and Equity ASAP Holders to pay dues, fees and charges as prescribed by the PCX Equities Board.

Part I—Committees

Proposed Rules 3.1 through 3.3 regarding Equity and Board committees were drafted using current PCX Rules as a starting point.²² However, under the proposed rules, the use of a “member” committee structure will be substantially curtailed.

Proposed Rule 3.1—Proposed Rule 3.1 states that the Board of Directors may establish (1) one or more Board committees consisting of one or more directors of the Corporation and (2) one or more Equity committees consisting of people other than directors. As discussed in more detail below, although the PCX Equities Board may establish additional Equity Committees under this proposed rule, the proposed Bylaws and Rules of PCX Equities currently envision only a Nominating

²⁰ See Amendment No. 2.

²¹ See Amendment No. 2.

²² See PCX Rules 11.1(a)–(b); 11.2(a)–(b); 11.3–11.5; 11.6(b); 11.8(d); and PCX Constitution Articles II–V.

Committee and a Business Conduct Committee. Similarly, although the Board may establish additional Board Committees, the proposed rule currently contemplate only one—the Board Appeals Committee. *Proposed Rule 3.2(a)*—Proposed Rule 3.2(a) establishes the substantive and procedural rules for an Equity Committee conducting meetings and exercising its authority. In particular, proposed Rule 3.2(a), which is similar to existing PCX rules and procedures, discusses quorums, voting, conference call meetings, vacancies, the removal and resignation of committee members, eligibility for and appointment to Equity Committees, interested persons and subcommittees. Under the proposed rule, ETP Holders, Equity ASAP Holders and allied persons of ETP Firms or Equity ASAP Holders as well as public representatives may be appointed to serve on Equity Committees. No more than one person affiliated with the same ETP Firm or Equity ASAP Holder shall be eligible for service on the same Equity Committee. In a department from the PCX rules, proposed Rule 3.2(a) would vest authority in the Chief Executive Officer or such other designee of PCX Equities to appoint the members of Equity Committees (other than the Nominating Committee).

Proposed rule 3.2(b)(1)—Proposed Rule 3.2(b)(1) describes the functions and authority of the Business Conduct Committee. PCX Equities' disciplinary process will be similar to the existing PCX disciplinary process and will be governed by a Business Conduct Committee. Pursuant to the proposed rule, the Business Conduct Committee would have the following functions and authority: (1) Examine the business conduct and financial condition of ETP Holders, ETP Firms, Equity ASAP Holders and associated persons; (2) conduct hearings and render decisions in summary disciplinary actions and proceedings; (3) impose appropriate sanctions of expulsion, suspension, fine, censure or any other fitting sanctions where the Committee finds that a violation within the disciplinary jurisdiction of the Corporation has been committed; and (4) require the production of detailed financial reports of an ETP Holder, ETP Firm or Equity ASAP Holder and such other operational reports as it may deem relevant.

In addition, under this proposed rule, the Business Conduct Committee will have the authority to examine and subsequently suspend an ETP Firm, ETP Holder or Equity ASAP Holder if the person or entity is in violation of proposed Rule 4. Any such suspension

is subject to review by the Board. Such review shall not operate as a stay of the suspension unless specifically allowed by the Board. A person or firm which experiences a reversal of the suspension imposed by the Committee shall be prohibited from instituting a lawsuit against the Corporation or the Committee members.

Finally, decisions of the Business Conduct Committee or sanctions imposed by the Regulatory Staff relating to disciplinary proceedings may be appealed in accordance with proposed Rule 10.

Proposed Rule 3.2(b)(2)—Proposed Rule 3.2(b)(2) describes the characteristics and functions of the Nominating Committee. Specifically, the Nominating Committee will have seven members consisting of six ETP Holders or Equity ASAP Holders and one public representative.

Members of this Committee will be nominated in accordance with the procedures set forth in proposed Rule 2.3(b)(2). This rule states that, prior to the expiration of its term, the Nominating Committee shall publish a slate of six eligible nominees for the committee. ETP and Equity ASAP Holders may submit a petition to the Corporation in writing to nominate additional eligible candidates to fill the ETP/Equity ASAP positions. Upon written petition of 20 percent of the ETP and Equity ASAP Holders, the Nominating Committee shall nominate the additional candidates. The Chief Executive Officer shall appoint a person from the public to fill the public position on the Nominating Committee.

If there are more than six nominees to fill the ETP/Equity ASAP Holder positions, the Nominating Committee shall submit the nominees to the ETP and Equity ASAP Holders for election. Each ETP and Equity ASAP Holder in good standing shall be permitted to vote for up to six nominees and the six nominees receiving the most votes shall fill the ETP/Equity ASAP positions. The Board of Directors shall decide tie votes. If there are only six nominees to fill the ETP/Equity ASAP Holder positions, those six nominees shall be deemed elected to the Nominating Committee.

This Committee will nominate two nominees for the PCX Equities Board of Directors and one nominee for the PCX Board of Governors. In particular, the Nominating Committee shall publish the names of two ETP Holders, Equity ASAP Holders, or affiliated persons thereof, as its nominees for the Board of Directors of the Corporation and one ETP Holder, Equity ASAP Holder or person affiliated thereof as nominee for the PCX Board of Governors. The

nominee for the PCX Board may be a person nominated to the PCX Equities Board. ETP and Equity ASAP Holders may submit a written petition to the Corporation to nominate additional eligible candidates to fill the ETP/Equity ASAP positions and, upon written petition of at least 20 percent of ETP and Equity ASAP Holders, the Nominating Committee shall also nominate the additional person(s). If there are three or more nominees for the Board of Directors and two or more nominees for the Board of Governors, the Nominating Committee shall submit the contested nomination(s) to the ETP and Equity ASAP Holders for selection. Each ETP and Equity ASAP Holder may select two nominees for contested seats on the Board of Directors and one nominee for contested seats on the Board of Governors. With respect to the contested positions, the two nominees for the Board of Directors and the nominee for the Board of Governors selected by the ETP and Equity ASAP Holders, shall be submitted by the Nominating Committee to the Board of Directors or the Board of Governors, as the case may be. Similarly, the Nominating Committee shall submit uncontested nominees to the Board of Directors or the Board of Governors. The respective Board at its first meeting following the election shall decide tie votes.

Proposed Rule 2.3—Under this proposed rule, each Equity Committee shall have such other powers and duties as delegated to it by the Board of Directors. Each Equity Committee is subject to the control, review, and supervision of the Board of Directors.

Proposed Rule 3.3—The proposed rules envision only one Board Committee—the Board Appeals Committee. Under proposed Rule 3.3(a)(1), the PCX Equities Board may appoint one or more Appeals Committees to conduct reviews of matters subject to the applicable provisions of proposed Rules 3.2(b)(1)(C) or proposed Rule 10. The PCX Equities Board will determine the size of any Appeals Committee that it appoints, and an Appeals Committee may be composed of only one member. Each Appeals Committee will contain public directors. Subject to proposed Rule 10, decisions of the Board Appeals Committee shall constitute the final action of the Corporation, unless the PCX Board remands the proceedings.

Part II—Regulation

As discussed in more detail below, proposed Rules 3.4 and 3.5 describe the self-regulatory responsibilities of the PCX with regard to PCX Equities as well

as the PCX's delegation of authority to PCX Equities.²³

Proposed Rule 3.4—As set forth in proposed Rule 3.4, the PCX Parent, as the registered SRO, shall have ultimate responsibility in the administration and enforcement of rules governing the operation of its subsidiary.

Notwithstanding the delegation of authority to the subsidiary described in proposed Rule 3.5, PCX will be required to review and ratify any rule changes adopted by the PCX Equities Board before such rule change becomes final action.

Proposed Rule 3.5—Under proposed Rule 3.5,²⁴ except as otherwise provided in the Bylaws, Rules, and procedures of PCX Equities, the Chief Regulatory Officer or such other designated officer of PCX Equities will have the following delegated authority:

- To establish and interpret rules and regulations for ETP Holders, Equity ASAP Holders, ETP Firms or associated persons including, but not limited to trading rules, fees, access to and use of system facilities, and arbitration procedures.

- To determine regulatory and trading policies, including the development and adoption of necessary or appropriate rule changes, relating to the business conduct and trading activities of ETP Holders, Equity ASAP Holders, ETP Firms and associated persons. This includes, but is not limited to, the following: (1) arbitration of disputes between ETP Holders, Equity ASAP Holders, ETP Firms or associated persons arising from transactions on the facility; (2) financial responsibility; (3) clearance and settlement of securities transactions and other financial responsibility and operational matters affecting ETP Holders, Equity ASAPs, ETP Firms or associated persons in general; and (4) qualification requirements for ETP Holders, ETP Firms or Equity ASAP Holders and associated persons.

- To take necessary or appropriate action to assure compliance with the Rules and procedures of the Corporation, the federal securities laws, and other laws, rules and regulations that the Corporation has the authority to administer or enforce, through examination, surveillance, investigation, enforcement, disciplinary, and other programs.

²³ See also The Plan of Delegation of Functions by the Pacific Exchange, Inc. to PCX Equities, Inc., which is available for inspection and copying at the Commission and the PCX and was included as Attachment No. 4 to Amendment No. 1.

²⁴ See Amendment No. 2, which documents changes to the Original Notice and Amendment No. 1.

- To administer programs and systems for the surveillance and enforcement of rules governing the conduct and trading activities of ETP Holders, Equity ASAP Holders, ETP Firms, and associated persons.

- To administer the Corporation's disciplinary programs, including investigations, adjudication of cases, and the imposition of fines and other sanctions.

- To examine and investigate ETP Holders, Equity ASAP Holders, ETP Firms and associated persons to determine if they have violated the Rules and procedures of the Corporation, the federal securities laws, and other laws, rules, and regulations that the Corporation has the authority to administer, interpret, or enforce.

- To place restrictions on the business activities of ETP Holders, Equity ASAP Holders, ETP Firms and associated persons consistent with the public interest, the protection of investors, and the federal securities laws.

- To conduct arbitrations, mediations and other dispute resolution programs.

- To appoint Trading Officials that shall be responsible for the general supervision of the conduct and dealings of ETP Holders, Equity ASAP Holders, ETP Firms and associated persons on the trading facility. These duties include, but are not limited to, the following: (1) arbitrate differences between ETP Holders, Equity ASAP Holders, ETP Firms or associated persons arising from transactions on the trading facility; (2) supervise all connections or means of communication with the trading facility, which may require the discontinuance of any such connection or means of communication that is deemed contrary to the welfare or interest of the Corporation; (3) issue a Floor Citation when it appears that a Minor Rule Plan violation has occurred as specified in Rule 10; (4) declare a "fast market" or invoke a trading halt in a security due to an influx of orders or other unusual market conditions or circumstances; (5) take such other actions as are deemed necessary in the interest of maintaining a fair and orderly market; and (6) supervise and regulate the operation of ITS, or any other application of the system during active openings, heavy trading and unusual situations.

- To administer or enforce policies and Rules of the Corporation (including federal and state regulations) governing the initial and continued listing or trading of securities on the Corporation.

The aforementioned authority delegated to the Chief Regulatory Officer represents a significant departure from

existing practice in that several of these responsibilities and functions currently reside with the Equities Floor Trading Committee.²⁵ Following the restructuring, PCX Equities intends to dissolve the Equity Floor Trading Committee.

Proposed Rule 3.6—Subject to minor word changes, proposed Rule 3.6 regarding surveillance agreements is the same as existing PCX Rule 14.1.

Part III—Dues, Fees and Fines

Other than minor conforming word changes, proposed Rules 3.7 through 3.9 are the same as the current PCX Constitution Article XIV, Section 1. Under these rules, the PCX Equities Board may impose reasonable fees, assessments, charges or fines to be paid by ETP Holders, ETP Firms or Equity ASAP Holders. Prior to implementing the restructuring, PCX will file with the Commission a rule proposal to change its Schedule of Fees and Charges for services provided by PCX Equities.

Rule 4—Capital Requirements, Financial Reports, and Margins

Proposed Rule 4, which sets forth the net capital, financial reporting and margin requirements for ETP Holders, ETP Firms and Equity ASAP Holders, has been adapted from current PCX Rule 2. Only minor conforming changes in terminology have been made to the current PCX rules. In addition, because current PCX Rules 2.5²⁶ and 2.8(a)²⁷ apply to options trading, the PCX has not incorporated those rules into proposed Rule 4.

Rule 5—Listings

Proposed Rule 5, which describes the requirements for listing, has been adapted from current PCX Rules 3.1 through 3.5. Other than minor conforming word changes made to reflect the circumstances of the restructuring, only two substantive changes have been made to PCX Rules 3.1 through 3.5. The first substantive change involves the transfer of authority over listing issues from the Equity Listing Committee to the PCX Equities management. Under the proposed rules,

²⁵ See Article IV, Sec. 6(b) of the current PCX Constitution.

²⁶ PCX Rule 2.5 states that "[a] Clearing member issuing a Letter of Guarantee for one or more Market Makers must at all times be in compliance with the net capital requirements of the Options Clearing Corporation and with the capital requirements of securities laws as they may exist from time to time."

²⁷ PCX Rule 2.8(a) states, in part, that "[t]he following members are exempt from subsections (b), (c) and (d) of Rule 2.1: any Floor Broker, Market Maker in listed options, or Lead Market Maker in listed options, registered with the Exchange in any such capacity."

PCX Equities management will have the authority to: prescribe rules and procedures for listing securities; approve listing applications; and suspend dealings in, or remove securities from, listing. The Equity Listing Committee, which currently performs these functions for the PCX, will be dissolved once PCX Equities is formed.

In addition, current PCX Rules 3.6 and 3.7, which govern the initial and continued listing of equity and index options, will not be incorporated into the proposed rules because they are not applicable to PCX Equities' business.

Rule 6—Business Conduct

Proposed Rule 6 consolidates various equity-related rules that address business practices, ethical standards,

and prohibited acts contained in the existing PCX Rules 2, 4 and 5 and the PCX Constitution. Other than minor conforming word changes that reflect the restructuring, each section of proposed Rule 6 is substantially the same as the relevant corresponding PCX rule or Article. The table below explains which PCX rule or Article was used as a model for each section of proposed Rule 6.

Proposed new rule	Current PCX rule
Rule 6.1—Adherence to Law	Constitution Article XI, Sec. 1
Rule 6.2—Prohibited Acts	Constitution Article XI, Sec. 2(a)–(f)
Rule 6.3—Prevention of the Misuse of Material, Nonpublic Information	Rule 2.6(e)
Rule 6.4—Rumors	Rule 4.6(b)
Rule 6.5—Manipulation	Rule 4.6(a)
Rule 6.6—Front-running of Block Transactions	Rule 5.8(k)
Rule 6.7—Limitations on Trading Because of Customer Orders ²⁸	Rules 4.5(a)–(c)
Rule 6.8—Discretionary	Rule 4.9
Rule 6.9—Excessive Trading	Rule 4.4
Rule 6.10—Taking or Supplying Securities to Fill Customer's Order	Rule 4.11
Rule 6.11—ETP Holders Holding Options	Rules 4.7(a) and 4.8(b)
Rule 6.12—Disclosure of Financial Arrangements	Rule 4.18(a)
Rule 6.13—Joint Accounts	Rule 4.10(a)–(b)
Rule 6.14—Disciplinary Action By Other Organizations	Rule 4.13
Rule 6.15—Officers and Employees Restricted	Rule 4.17(a)
Rule 6.16—Miscellaneous Prohibitions	Rule 4.6(c)

²⁸ See Amendment No. 2, which deleted rule language proposed in another PCX filing (SR-PCX-99-11) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 4.5(a)–(c).

Finally, current PCX Rule 4.19 will be omitted from inclusion in the proposed rules as it pertains to an exemption provided to short sales effected by options market makers in Nasdaq National Market securities.

Rule 7—Equities Trading

Proposed Rule 7 is closely patterned after the PCX's existing equity trading rules. However, as discussed below, certain changes have made. First, the proposed rule reorganizes the PCX equity trading rules (primarily current PCX Rule 5) to make it easier to locate and understand those provisions. The proposed new rule consists of twelve sections:

- Section 1. Definitions and General Provisions
- Section 2. Admission to and Conduct on the Trading Floor
- Section 3. Units of Trading, Bids, Offers and Quotations
- Section 4. ETP Holders Acting as Brokers
- Section 5. ETP Holders Acting as Specialists
- Section 6. ETP Holders Acting as Odd-lot Dealers
- Section 7. Trading Practices and Procedures
- Section 8. Contracts in Securities
- Section 9. Intermarket Trading System Plan
- Section 10. Automatic Execution Systems

Section 11. Special Offerings
Section 12. Exchange Distributions

In addition to the reorganizational changes,²⁹ as described in more detail below, existing trading rules have been restated and clarified and obsolete references have been deleted.

Proposed Rule 7.1—Several definitions and references contained in current PCX Rule 4.1 have been incorporated into proposed Rule 7.1(a). However, current PCX Rules 4.1(a)–(d) and (h) have not been incorporated into this new rule because the Exchange believes that these terms either do not apply to PCX Equities or are superfluous.³⁰

Proposed Rule 7.8—Proposed Rule 7.8 which pertains to the admission to and conduct on the trading floor of ETP Holders, employees of ETP Firms, and visitors, clarifies existing PCX Rules 5.1(e) through (g) and 5.16(a), and codifies current policies and procedures. In addition, current PCX Rules 4.12, 5.1(a) and 5.1(c) and (d), which govern the activities of floor

²⁹ See Amendment No. 2.

³⁰ See, e.g., Rule 4.1(a) states that "Exchange shall mean the Pacific Exchange, Inc., including all the operations of the Exchange and, when used with reference to the administration of any rule, means either the Board of Governors or the officer, employee or committee to whom appropriate authority to administer such rule has been delegated by the Board pursuant to the provisions of the Exchange Constitution."

clerks, have been incorporated into this Rule 7.8 as commentaries.

Proposed Rule 7.21—Proposed Rule 7.21 is adapted from current PCX Rule 4.21 (Floor Broker Error Accounts).

Proposed Rule 7.22—The Exchange believes that proposed Rule 7.22(d) adequately covers the appeals process for an applicant specialist that is denied appointment as a registered specialist by the Corporation. Therefore, current PCX Rules 5.27(h) through (k) are superfluous because any request for an appeal by an applicant specialist will be subject to the applicable provisions of proposed Rule 10.14.

Proposed Rule 7.29—Proposed Rule 7.29 (current PCX Rule 5.37), relating to the evaluation of specialist performance, states that the Corporation, rather than the Equity Allocation Committee, will evaluate all registered specialists on a quarterly basis. Once the restructuring is effective, the Equity Allocation Committee will be dissolved and the Corporation will be responsible for allocating and reallocating issues and for evaluating and monitoring the performance of specialists.

Proposed Rule 7.44—Proposed Rule 7.44 is adapted from current PCX Rule 4.20 (Chinese Wall Procedures for Specialists).

Proposed Rule 7.47—Proposed Rule 7.47 is adapted from current PCX Rule

4.22 (Trading Halts Due to Extraordinary Market Volatility).
Proposed Rule 7.51—Current PCX Constitution Article XI, Sections 1(a) through (c), which relate to settlement of securities contracts, will be added as new Rule 7.51.
Proposed Rule 7.54—Current PCX Rules 4.14 through 4.16 regarding

marking to the market will be added as new Rule 7.54.
Proposed Rule 7.71–7.78—Current PCX Rules 15.1 through 15.8 regarding OptiMark will be added as new Rules 7.71 through 7.78.
 Other than the substantive changes discussed above and mirror conforming word changes that reflect the

restructuring, each section of proposed Rule 7 is substantially the same as the relevant corresponding PCX rule or Article. The table below describes which PCX rule or Article was used as a model for each section of proposed Rule 7.

Proposed new rule	Current PCX rule
Rule 7.1—Definitions	Rule 4.1
Rule 7.2—Hours of Business	Rule 4.2
Rule 7.3—Holidays	Rule 4.3
Rule 7.4—Types of Orders	Rule 5.2(a) & (c)
Rule 7.5—Authority of Trading Officials	Rule 5.15
Rule 7.6—Commissions	Rules 5.39–5.41
Rule 7.7—Ex-Dividend or Ex-Right Dates	Rule 5.7
Rule 7.8—Trading Floor Standards	Rules 4.12, 5.1(a), (c)–(e), (g); 5.16(a); 6.2(c) [see also discussion in text]
Rule 7.9—Trading Units	Rule 5.3(a)
Rule 7.10—Trading Differentials	Rule 5.3(b) & (c)
Rule 7.11—Transmission of Bids and Offers	Rules 5.6(d) & (e)
Rule 7.12—Recognized Quotations	Rule 5.6(a) & (f)
Rule 7.13—Bid or Offer Deemed Regular Way	Rule 5.6(b)
Rule 7.14—Trading in “When Issued/Distributed” Securities	Rule 5.9(b)
Rule 7.15—Execution Price Binding	Rule 5.11(a)
Rule 7.16—Cancellation of Revisions in Transactions	Rule 5.11(b) & (c)
Rule 7.17—Manner of Bidding and Offering	Rule 5.5(a)
Rule 7.18—Types of Bids and Offers	Rules 5.6(c); 5.9(a)
Rule 7.19—Priority and Precedence of Bids and Offers ³¹	Rule 5.8(a)–(g), (i)
Rule 7.20—Cabinet Dealings	Rule 5.5(b) & (c)
Rule 7.21—Error Accounts	Rule 4.21
Rule 7.22—Registration of Specialist	Rule 5.27
Rule 7.23—Registered Specialist’s Assistant	Rule 5.28(f)
Rule 7.24—Responsibilities of Specialists ³²	Rule 5.28(c)–(e); Rule 5.29(f), (g), (j); 5.30(e)
Rule 7.25—Specialist’s Coordination ³³	Rule 5.30
Rule 7.26—Specialist Joint Accounts	Rule 5.33(e)
Rule 7.27—Disclosure of Specialists’ Orders Prohibited ³⁴	Rule 5.29(d)
Rule 7.28—Dealings by Specialist	Rule 5.33(a), (b), (h)
Rule 7.29—Evaluation of Specialist Performance	Rule 5.37
Rule 7.30—Competing Specialist Program ³⁵	Rule 5.35
Rule 7.31—Alternate Specialist	Rule 5.36
Rule 7.32—Remote Trading Access Program ³⁶	Rule 5.38
Rule 7.33—Members Acting as Odd Lot Dealers	Rules 5.34; 5.4
Rule 7.34—Order Identification	Rule 5.13(c) & (d)
Rule 7.35—Orders Requires to Be in Written Form	Rules 5.2(b), 5.8(h), 5.13(e), 5.28, 5.29(a), (b) & (h)
Rule 7.36—Record of Orders	Rule 5.29(e)
Rule 7.37—Reporting Duties	Rule 5.12
Rule 7.38—Confirmation of “GTC” Orders	Rule 5.29(c)
Rule 7.39—Reducing Orders Ex-Dividend	Rule 5.29(i)
Rule 7.40—Short Sales	Rule 5.18
Rule 7.41—Crossing Orders	Rule 5.14
Rule 7.42—Primary Market Protection “PMP”	Rule 5.32
Rule 7.43—Stop Loss Orders	Rule 5.8(j)
Rule 7.44—Chinese Wall Procedures for Specialists	Rule 4.20
Rule 7.45—Stock Option Transactions	Rule 5.33(d) & (f)
Rule 7.46—Trading Halats and Suspensions ³⁷	Rule 5.31
Rule 7.47—Trading Halts Due to Extraordinary Market Volatility	Rule 4.22
Rule 7.48—Arbitrage Prohibited	Rule 5.10
Rule 7.49—Over-the-Counter Executions of Equity Securities Transactions.	Rules 5.43–5.49
Rule 7.50—Definitions and General Provisions	Rule 5.9(b)(3) & (4); Rule 5.13(i)
Rule 7.51—ETP and Equity ASAP Contracts	Constitution Article IX, Sec. 1
Rule 7.52—Exchange of Tickets and Comparison	Rule 5.13(a)–(b), (f)–(h)
Rule 7.53—Delivery of Securities	Rule 5.9(c) & (d)
Rule 7.54—Marking to Market	Rules 4.14–4.16
Rule 7.55—Disagreement	Rule 5.55
Rule 7.56—Suspension or Expulsion	Rule 5.56
Rule 7.57—Normal Buy-Ins	Rule 5.57
Rule 7.58—Re-transmission of Notice	Rule 5.58
Rule 7.59—Notice on Less Than Full Amount	Rule 5.59
Rule 7.60—Liability Where Contract Closed	Rule 5.60
Rule 7.61—Notice of Closing	Rule 5.61

Proposed new rule	Current PCX rule
Rule 7.62—Duty of Member Giving Notice to Close	Rule 5.62
Rule 7.63—Method of Closing	Rule 5.63
Rule 7.64—Buy-ins Where Securities in Transfer	Rule 5.64
Rule 7.65—Over-the-Counter Securities	Rule 5.65
Rule 7.66—Intermarket Trading System Plan	Rule 5.20
Rule 7.67—ITS “Trade-Throughs” and “Locked Markets”	Rule 5.21
Rule 7.68—Block Trade Policy	Rule 5.22
Rule 7.69—Liability of Corporation Relating to Operation of ITS	Rule 5.23
Rule 7.70—Pacific Computerized Order Access System (“P/COAST”) ³⁸	Rule 5.25
Rule 7.71—Definitions	Rule 15.1
Rule 7.72—Access	Rule 15.2
Rule 7.73—Entry of Profiles and Generation of Orders	Rule 15.3
Rule 7.74—Order Execution and Reporting	Rule 15.4
Rule 7.75—Hours of Operation	Rule 15.5
Rule 7.76—Errors	Rule 15.6
Rule 7.77—Trading Suspensions and Halts	Rule 15.7
Rule 7.78—Limitation of Liability	Rule 15.8
Rule 7.79—Approval	Rule 5.51
Rule 7.80—Exchange Distribution	Rule 5.53

³¹ See Amendment No. 2, which deleted rule language proposed in other PCX filings (SR-PCX-99-06 and SR-PCX-99-07) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 5.8(a)–(g) and (i).

³² See Amendment No. 2, which deleted rule language proposed in another PCX filing (SR-PCX-99-11) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 5.28(c)–(e); Rule 5.29(f), (g), (j); and Rule 5.30(e).

³³ See Amendment No. 2, which deleted rule language proposed in another PCX filing (SR-PCX-99-06) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 5.30.

³⁴ See Amendment No. 2, which deleted rule language proposed in other PCX filings (SR-PCX-99-06 and SR-PCX-99-11) that is currently pending with the Commission.

³⁵ See Amendment No. 2, which deleted rule language proposed in another PCX filing (SR-PCX-99-07) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 5.35.

³⁶ See Amendment No. 2, which deleted rule language proposed in another PCX filing (SR-PCX-98-41) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 5.38.

³⁷ See Amendment No. 2, which deleted rule language proposed in other PCX filings (SR-PCX-99-06 and SR-PCX-99-07) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 5.31.

³⁸ See Amendment No. 2, which deleted rule language proposed in another PCX filing (SR-PCX-99-07) that is currently pending with the Commission. This proposal now reflects the current language found in PCX Rule 5.25.

Rule 8—Trading of Certain Equity Derivatives

Proposed Rule 8, which describes the trading requirements for currency and index warrants and portfolio depository receipts, is substantially the same as current PCX Rule 8, except for minor conforming word changes made to reflect the restructuring and the deletion of provisions relating to the trading of FLEX and Bounds options (current PCX Rules 8.100 and 8.200, respectively) because they are not applicable to PCX Equities' business.

Rule 9—Conducting Business with the Public

Proposed Rule 9, which governs how ETP Holders, ETP Firms and Equity ASAP Holders must conduct business with the public, is patterned after existing PCX Rule 9. Except for minor changes in terminology, the proposed rule is substantially the same as the existing rule.

Rule 10—Disciplinary Proceedings, Other Hearings, and Appeals

Proposed Rule 10 describes the disciplinary process for PCX Equities. PCX Equities' disciplinary process will be similar to the existing PCX disciplinary process (including

summary sanction procedures under the Minor Rule Plan) and will be governed by the Business Conduct Committee. Therefore, aside from conforming word changes and the substantive changes discussed below, proposed Rule 10 will be closely modeled after existing PCX Rule 10.

The Business Conduct Committee will, in accordance with proposed Rule 3.2(b)(1)(A), have the following authority:

- To conduct hearings and render decisions in summary disciplinary actions and proceedings.
- To impose appropriate sanctions of expulsion, suspension, fine, censure or any other fitting sanctions where the Committee finds that a violation within the disciplinary jurisdiction of the Corporation has been committed.
- To examine the business conduct and financial condition of ETP Holders, ETP Firms, Equity ASAP Holders, and associated persons.
- To require the production of detailed financial reports of an ETP Holder, ETP Firm, or Equity ASAP Holder and such other operational reports as it may deem relevant.
- To suspend any ETP Holder, ETP Firm, or Equity ASAP Holder for failure to comply with the financial and

reporting requirements in proposed Rule 4.

Any disciplinary sanctions imposed by the Business Conduct committee may be appealed to the PCX Equities Board Appeals Committee. Decisions of the Board Appeals Committee may be appealed to the PCX Board of Governors and subsequently to the Commission.

Proposed Rules 10.1 through 10.4 reflect several rule amendments previously approved by the PCX Board of Governors, which are now pending Commission approval.³⁹ The pending amendments to the disciplinary proceedings propose to: (1) codify the independent function of the Regulatory Staff; (2) clarify what communications are improper in the context of pending investigations or disciplinary proceedings; (3) provide the Regulatory Staff with the ability to issue formal complaints for the alleged violations of Exchange rules; (4) permit qualified persons who are not members to serve on hearing panels; and (5) codify procedures relating to hearing panelists' conflicts of interest.

Notwithstanding the above, the Exchange proposes to make additional

³⁹ See Exchange Act Release No. 42384 (February 3, 2000), 65 FR 6675 (February 10, 2000) (File No. SR-PCX-99-10).

changes to its disciplinary rules before the implementation of the restructuring. Set forth below is a summary of the proposed substantive amendments to existing PCX Rule 10)

Proposed Rule 10.4(a)—Restates that the Chief Regulatory Officer or such other delegatee(s) will have the authority to review disciplinary proceedings and to determine whether there is probable cause to issue a formal complaint.

Proposed Rule 10.4(c)—Former Rule 10.5 has been moved to new Rule 10.4(c) and the reference to the Hearing Panel is replaced with Business Conduct Committee.

Proposed Rule 10.5(a)—Permits the Business Conduct Committee to appoint one or more members to serve on the “Conduct Panel” with respect to disciplinary proceedings that are not resolved through the settlement process or summary proceeding.

Proposed Rule 10.8(a)—Defines and clarifies the procedures and timetables for the respondent to follow when requesting the review of a decision by the Conduct Panel appointed by the Business Conduct Committee.⁴⁰ The respondent may appeal to the Board at any time within fifteen calendar days after the decision has been served.

Proposed Rule 10.8(b)—Provides that the Board Appeals Committee may appoint a Board Appeals Committee Panel (“Appeals Panel”)⁴¹ to review the decision rendered by the Conduct Panel. The composition of the Appeals Panel will be determined by the Board Appeal Committee in accordance with proposed Rule 3.3(a)(1)(A).

Proposed Rule 10.8(c)—Provides that decisions of the Board Appeals Committee may be appealed to the PCX Board of Governors. The PCX Board’s review is confined to the issues raised by the respondent’s written petition for review.

Proposed Rule 10.8(d)—In reviewing the decision of the Board Appeals Committee, the PCX Board may, on its own initiative, order review of the decision after notice of such decision has been served on the respondent. If the PCX Board does not order review of the decision, the decision of the Appeals Panel will become final.

Proposed Rules 10.12 and 10.13—The proposed rules relating to disciplinary action pursuant to the PCX Equities’ Minor Rule Plan, as well as the

summary sanction procedures, are substantially the same as current PCX Rules 10.13 and 10.14. However, the existing PCX provisions relating to options trading have not been included in the proposed rules because they are not applicable to PCX Equities’ business.

Proposed Rules 1.14(a)–(m)—Current PCX Rules 11.7(a)–(n) regarding appeals for non-disciplinary matters will be incorporated into proposed Rule 10.14. Proposed Rule 10.14 provides the procedures for persons aggrieved by any of the following actions taken by the Corporation to apply for an opportunity to be heard and to have the action reviewed. These actions are: (1) denial of an ETP or Equity ASAP; (2) the barring of any person from becoming associated with an ETP Firm or Equity ASAP Holder; (3) the suspension or cancellation of ETP or Equity ASAP trading privileges; (4) the prohibition or limitation of access to services provided by the Corporation, or the services of any ETP Firm or Equity ASAP Holder; or (5) denial of an applicant specialist for appointment as a registered specialist.

Rule 11—Expulsion, Suspension and Reinstatement

Proposed Rule 11 clarifies, restates, and reorganizes existing PCX Rules and procedures regarding certain suspensions, cancellations, bars and prohibitions on access to the PCX Equities services and facilities. The following describes the proposed rules and how they differ from existing rules, where applicable.

Proposed Rules 11.1(a)–(b)—Proposed Rules 11.1(a)–(b) incorporate a modified version of current PCX Constitution, Article X, Sections 1(a) and (b). This rule requires an ETP Holder, ETP Firm or Equity ASAP Holder to give prompt written notice to the Corporation if it is expelled or suspended from any SRO, encounters financial difficulty or operating inadequacies, fails to perform contracts or becomes insolvent, or if any associated person of such ETP Firm or Equity ASAP Holder is similarly expelled or suspended by an SRO.

Proposed Rules 11.2(a)–(b)—PCX has reorganized and simplified its rules relating to summary and non-summary disciplinary proceedings. The proposed rules have been adapted from NASD Rule 9510 Series and PCX Constitution, Article X, Section 2 and Article XI, Section 3(c). The proposed rules are intended to eliminate any potential ambiguities in the procedures related to summary and non-summary suspensions by expressly identifying the grounds for imposing such suspensions.

Proposed Rule 11.2(c), Commentary .01—Proposed Rule 11.2(c) provides that action taken pursuant to Rule 11.2(a) shall also be subject to the applicable provisions of Rule 10.14. Furthermore, under proposed Commentary .01, the Corporation will be required to notify the Commission in the event that it determines to take summary action pursuant to Rule 11.2

Proposed Rule 11.3—Proposed Rule 11.3 states that an ETP Holder, ETP Firm or Equity ASAP Holder, or associated person thereof loses all rights and trading privileges when those privileges are suspended or canceled by the Corporation. However, such person or organization shall remain subject to the disciplinary power of the Corporation.

Proposed Rule 11.4—Proposed Rule 11.4 states that an ETP Holder, ETP Firm or Equity ASAP Holder, or associated person thereof whose trading privileges are suspended may be disciplined by the Corporation for any offense committed either before or after the announcement of the suspension.

Proposed Rule 11.5—Other than minor word changes, proposed Rule 11.5 is modeled closely after the current PCX Constitution, Article X, Section 3. Proposed Rule 11.5 states that a person or organization whose trading privileges have been suspended must immediately allow the Corporation to investigate its affairs.

Proposed Rule 11.6—Other than minor word changes, proposed Rule 11.6 is modeled closely after the current PCX Constitution, Article X, Section 4. Proposed Rule 11.6 describes the grounds for canceling trading privileges.

Proposed Rule 11.7—Other than minor word changes, proposed Rule 11.7 is modeled closely after the current PCX Constitution, Article X, Section 5. Proposed Rule 11.7 describes the reinstatement process after trading privileges have been suspended.

Proposed Rule 11.8—Proposed Rule 11.8 provides that if any ETP Holder, ETP Firm, Equity ASAP Holder, or any associated person is suspended and fails or is unable to apply for reinstatement or fails to obtain reinstatement, trading privileges conferred by an ETP or Equity ASAP will terminate.

Rule 12—Arbitration

Proposed Rule 12, the arbitration rule, has been patterned closely after current PCX Rule 12. Other than the changes discussed below, only minor changes in terminology have been made to conform the proposed rule to the circumstances of the proposed restructuring.

The PCX notes that it is proposing to adopt new Rule 12.1, replacing current

⁴⁰ The Exchange is proposing to make certain technical changes throughout the text of the proposed Rule 10 for clarification purposes (e.g., changing the reference to calendar days).

⁴¹ The body conducting the review, either the Board Appeals Committee itself or the Appeals Panel is also referred to in the proposed rules as the Review Board.

Commentary .01. Proposed Rule 12.1 will define certain terms used in the context of this Rule, including the following:

1. The term "ETP" shall mean both ETP and Equity ASAP permits.
2. The terms "service" or "serve" shall mean effecting the delivery of a document to persons via first class mail, overnight delivery, hand delivery, or facsimile.
3. The term "associated person" shall also include "affiliated" person "approved person" and "allied person."
4. The term "Director of Arbitration" shall mean any person appointed or designated by the Corporation's Chief Executive Officer to direct the Corporation's arbitration program.

The Exchange is also proposing to renumber current Commentaries .02 and .03 of Rule 12.1 as subsections (h) and (i), respectively. Commentary .01 of current PCX Rule 12.8(e) is being renumbered as 12.9(g).

Rule 13—Liability of Directors and Corporation

Proposed Rule 13 has been adapted from current PCX Rule 13. Only minor changes in terminology have been made to conform the rule to the proposed restructuring.

Equity Floor Procedure Advices

This section of the proposed rules contains the various equity floor procedures and policies that have been adopted over time. These proposed rules have been adapted from the existing ones, which were previously approved by the Commission. These policies will apply to ETP Holders, ETP Firms, clerks or such other persons employed by ETP Firms that conduct business on the trading floor. Only minor changes in terminology have been made to the existing floor procedures and policies.

b. *Pacific Exchange, Inc. Constitution and Rules*. Summarized below are the proposed amendments to the PCX Constitution and Rules. These changes primarily involve the deletion of equities-related language since the PCX Parent will only carry on the options trading business. Even though PCX Parent will have a separate set of rules applicable to options, it will continue to have ultimate responsibility in the administration and enforcement of rules governing the operation of PCX Equities.

Rules of the Pacific Exchange, Inc. ("PCX Parent"). The current rules for the PCX are essentially the same except for the following rules that have been deleted because they pertain to the equities business:

Rule 2—Capital Requirements

Rules 2.1(b)–(d)—Minimum Net Capital for Specialist Firms

Rule 2.2—Specialist Post Capital

Rule 4—General Trading Rules

Rule 4.5—Limitations on Members' Trading Because of Customers' Orders

Rule 4.7—Members Holding Options

Rule 4.8—Specialist (Report of Options)

Rule 4.11—Taking or Supplying Securities Named in Order

Rules 4.14–4.16—Marking to the Market

Rule 4.20—Chinese Wall Procedures for Specialists

Rule 5—Equity Trading Rules⁴²

The text for the following equity rules will be deleted: Rules 5.1(b)–(d), 5.1(g)–5.2(a), 5.2(c)–5.8(j), and 5.9–5.65.

Rule 10—Disciplinary Proceedings and Appeals

Rules 10.13(i) and (k)(ii)—Minor Rule Plan: Equity Minor Trading Rule Violations

Rule 11—Committees of the Exchange

Rules 11.9(a)–(c)—the Equity Listing, National Market System Advisory, and the Equity Marketing Committees have been deleted.

Rule 15—PCX Application of the OptiMark System

The rules governing the OptiMark trading system have been removed and incorporated into proposed new Rules 7.71 through 7.78 for PCX Equities.

Equity Floor Procedure Advices

Floor Procedure Advices 1–A through 3–A have been removed and incorporated into the proposed new rules for PCX Equities.

The Exchange is also proposing to modify the text of several PCX rules so that they will be consistent with the operation of PCX Equities. First, the proposal would amend the text of current PCX Rule 1.1(f) to clarify that ETPs and Equity ASAPs issued by PCX Equities will not confer any rights to trade on the options facilities.

Second, the Exchange is proposing to eliminate references to the P/COAST and OptiMark trading systems in PCX Rule 1.14(a). These trading systems are facilities of PCX Equities and access to such systems is restricted to ETP and Equity ASAP Holders.

Third, the Exchange is proposing to retain its rules (current PCX Rule 3)

⁴² The following equity trading rules are applicable to options trading and will be incorporated into PCX Rule 4. Current Rules 5.1(a) (Member Responsibility), 5.2(b) (Orders Read for Amount) and 5.8(g) (Special Situations) are proposed to be moved to new Rule 4.23 entitled "Miscellaneous Provisions." Current Rules 5.1(e)–(f) (prohibition of non-member trading) are proposed to be moved to new Rule 4.4, entitled "Access to Trading Facilities." Current Rule 5.8(k) (rule on front-running of block transactions) is proposed to be renumbered Rule 4.7.

relating to the initial and continued listing of equity securities. Since PCX Equities itself is not registered as a national securities exchange, the Exchange believes that equity securities will continue (for legal and regulatory purposes) to be listed on PCX Parent. Accordingly, the federal and state exchange exemptions applicable to listings on PCX Parent will continue to apply so as to mitigate any misconceptions regarding the existence of such exemptions, as well as the administration of the Exchange's listings program.

Fourth, as discussed earlier, the proposed amendments pertaining to the rules and procedures for listing and delisting securities are also reflected in Rule 3.

Constitution of Pacific Exchange, Inc. The proposed amendments to the PCX Constitution are as follows: First, Article I, Sections 1 and 2, and Article II, Section 1(b) have been modified to reflect the separation of the equities operation (into PCX Equities) from the PCX Parent options business. As amended, the PCX Parent's principal place of business and the place of its annual meeting will be in San Francisco.

Second, the Exchange proposes to amend Article III, Section 2(a) relating to the annual election of Governors.⁴³ As amended, this provision will require that there be seven Governors in each of the three classes specified, and that such Governors comprising each class will have terms expiring at the Annual Meeting in 2002, 2003, and 2004, respectively. The Exchange proposes this rule change to make Article II, Section 1(a) consistent with Article III, Section 2(a), which sets minimum requirements for the composition of the Board of Governors.

Third, the Exchange proposes to amend Article III, Section 2(b) so that of the Governors in each of the classes specified in Article II, Section 2(a), at least one will be a member of the Exchange; at least one will be an office member or office allied member of the Exchange; and at least three will be representatives of the public.⁴⁴ In addition, the Exchange proposes that at least one of the two floor members on the Board will be an ETP Holder, an Equity ASAP Holder or an Allied Person of an ETP Firm or an Equity ASAP Holder. The Exchange proposes these changes in order to codify a longstanding practice that is intended to

⁴³ See Exchange Act Release No. 42235 (December 14, 1999), 64 FR 71839 (December 22, 1999).

⁴⁴ *Id.*

assure a balanced representation of both floor members and non-floor members among the industry representatives.

Fourth, the Exchange proposes to remove Sections 5(a)-(b) and 6(a)-(b) of Article IV, as these provisions pertain to equity-related committees (*i.e.*, the Equity Allocation Committee and the Equity Floor Trading Committee) and are not applicable to the PCX Parent's options business.

Fifth, concurrent with the creation of PCX Equities, the Board of Governors is proposing to add Section 10 of Article VII to authorize the PCX Parent to buy, sell, or lease memberships as the Board of Governors may from time to time determine. Although the Board of Governors has no present intention of using this authority, it believes that this amendment is desirable because of the increased flexibility it will give to the Exchange.

Finally, the Exchange proposes to remove Sections 1-3 of Article XV, as these provisions pertain to the equities clearing business. Upon effectiveness of the restructuring, PCX Parent will transfer its ownership interest in Pacific Clearing Corporation to PCX Equities.

c. Plan of Delegation of Functions by the Pacific Exchange, Inc. to PCX Equities, Inc. The PCX approved a Plan of Delegation of Functions by the Pacific Exchange, Inc. to PCX Equities, Inc.⁴⁵ The Plan states that the PCX, the registered national securities exchange, is the parent company of the wholly-owned subsidiary, PCX Equities. The Plan also sets forth the functions and authority of the PCX and the functions and authority, which the PCX delegates to the PCX Equities.

2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)⁴⁶ of the Act, in general, and furthers the objectives of Section 6(b)(5),⁴⁷ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and a national market system and 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 self-regulatory organization 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 Amendment Nos. 1 and 2 are 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 will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-99-39 and should be submitted by March 9, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-4221 Filed 2-22-00; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice No. 3219]

Shipping Coordinating Committee International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m. on Tuesday, March 14, 2000, in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of this meeting is to prepare for the Eighty-first Session of the International Maritime Organization Legal Committee (LEG 81) to be held in London from 27-31 March, 2000.

During LEG 81, the Legal Committee will complete the preparation of the draft bunkers convention for a diplomatic conference, which will be held in the 2000-2001 biennium. The Legal Committee will then continue work on a draft protocol to the Athens Convention and on the draft Wreck Removal Convention. The committee will next turn its attention to the implementation of the HNS Convention, and time will also be allotted to address any other issues on the Legal Committee's work program on which there are questions or comments.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information, or to submit views in advance of the meeting, please contact Captain Malcolm J. Williams, Jr., or Lieutenant Daniel J. Goettle, Coast Guard, Office of Maritime and International Law (G-LMI), 2100 Second Street, SW., Washington, DC 20593-0001; telephone (202) 267-1527; fax (202) 267-4496.

Dated: February 16, 2000.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 00-4247 Filed 2-22-00; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Renewal of Treatment on Government Procurement of Products From Counties Designated Under the Caribbean Basin Economic Recovery Act

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Renewal of treatment on Government Procurement of Products from Countries Designated under the

⁴⁵ See Attachment No. 4 to Amendment No. 1 to the proposed rule change.

⁴⁶ 15 U.S.C. 78f(b).

⁴⁷ 15 U.S.C. 78f(b)(5).

⁴⁸ 17 CFR 200.30-3(a)(12).