

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and Rule 19b-4(f)(6)<sup>19</sup> thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>20</sup> normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>21</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and public interest. The Exchange seeks to have the proposed rule change become operative on or before June 30, 2002, in order to allow the Pilot to continue in effect on an uninterrupted basis. In addition, under Rule 19b-4(f)(6)(iii), the Exchange is required to provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter time as designated by the Commission. The Commission waived the five-day pre-notice and thirty-day operative date requirements for this proposed rule change.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change to extend the Pilot through August 31, 2002, become operative on June 30, 2002. The Commission notes that unless the Pilot is extended, the Pilot will expire and the provisions of Sections 312.01, 312.03, and 312.04 of the Exchange's Listed Company Manual that were amended in the Pilot will revert to those in effect prior to June 4, 1999. The Commission believes that such a result could lead to confusion.

The Commission recognizes that the Pilot has generated many comment letters from commenters that do not support the NYSE's definition of "broadly-based" stock option plans under the Pilot.<sup>22</sup> The Commission also notes that many commenters were critical of the NYSE's existing rules on broadly-based plans prior to the adoption of the original Pilot. As noted above, if the Pilot is not extended, the rules prior to the Pilot will go into effect. The proposed rule change merely extends the duration of the Pilot for only a short period of time and does not deal with the substantive issues presented by the Pilot itself.

Based on these reasons, the Commission has determined that it is consistent with the protection of investors and the public interest that the proposed rule change to extend the Pilot through August 31, 2002, become operative on June 30, 2002.<sup>23</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.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549-0609. 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 above-mentioned self-regulatory organization.

<sup>22</sup> See Original Pilot Approval Order, note 3 *supra*.

<sup>23</sup> For purposes only of accelerating the operative date of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

All submissions should refer to the File No. SR-NYSE-2002-22 and should be submitted by July 26, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>24</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 02-16849 Filed 7-3-02; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46138; File No. SR-PCX-2002-32]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Changes in Marketing Fees**

June 27, 2002.

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 May 30, 2002, the Pacific Exchange, Inc. ("PCX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which the PCX has prepared. 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 PCX is proposing to change its marketing fee for certain options and to adopt new marketing fees for recently listed options. The text of the proposed rule change is available at the 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 PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

<sup>24</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>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> *Id.*

<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

The PCX recently adopted a payment-for-order-flow program under which it charges a marketing fee ranging from \$0 to \$1.00 per contract on a per-issue basis.<sup>3</sup> The PCX segregates the funds from this fee by trading post and makes the funds available to lead market makers for their use in attracting orders in the options traded at the posts. The PCX charges the marketing fees as set forth in the Schedule of Rates.

The PCX is proposing to change the marketing fee for certain options as set forth in the Schedule of Rates beginning at the commencement of the June trade month and continuing until further notice. The PCX proposes to change only the amounts of the fees that it charges for transactions in the options that are included in the proposed Schedule of Rates. Any fees currently being charged for transactions in options that are not listed in this amendment to the Schedule of Rates would not be affected by the proposed rule change. The PCX believes that its proposed rule change is reasonable and equitable because it is designed to enable the PCX to compete with other markets in attracting options business. Only the amount of the fee is being changed.

The PCX believes that the proposal is consistent with section 6(b) of the Act,<sup>4</sup> in general, and section 6(b)(4) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The PCX 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*

The PCX neither solicited nor received written comments on the proposed rule change.

<sup>3</sup>See Securities Exchange Act Release No. 44830 (September 21, 2001), 66 FR 49728 (September 28, 2001) (SR-PCX-2001-37).

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)<sup>7</sup> because it changes a PCX fee. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 the filing will also be available for inspection and copying at the principal offices of the PCX. All submissions should refer to File No. SR-PCX-2002-32 and should be submitted by July 26, 2002.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 02-16770 Filed 7-3-02; 8:45 am]

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**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3427]**

**State of Alaska; Disaster Loan Areas**

As a result of the President's major disaster declaration on June 26, 2002, I find that Fairbanks North Star Borough, McGrath and Lime Village in the

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 19b-4(f)(2).

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

Iditarod Regional Education Attendance Areas (REAA), Aniak, Crooked Creek, Red Devil and Sleetmute in the Kuspuk REAA, Kwethluk in the Lower Kuskokwim REAA and Ekwok and New Stuyahok in the Southwest Region REAA in the State of Alaska constitute a disaster area due to damages caused by flooding occurring on April 27, 2002 through May 30, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 25, 2002 and for economic injury until the close of business on March 26, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration,  
Disaster Area 4 Office, P.O. Box  
13795, Sacramento, CA 95853-4795

In addition, applications for economic injury loans from small businesses located in the following areas and jurisdictions in Alaska may be filed until the specified date at the above location: Alaska Gateway REAA, Delta/Greely REAA, Iditarod REAA, Kahsunamiut (Chevak) REAA, Lower Kuskokwim REAA, Lower Yukon REAA, Southwest Region REAA, Yupiit (Akiachak, Akiak and Tulusak) REAA, Lake & Peninsula Borough, Yukon Flats REAA, Denali Borough and Yukon-Koyukuk REAA.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere .....	6.750
Homeowners without credit available elsewhere .....	3.375
Businesses with credit available elsewhere .....	7.000
Businesses and non-profit organizations without credit available elsewhere .....	3.500
Others (including non-profit organizations) with credit available elsewhere .....	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere ...	3.500

The number assigned to this disaster for physical damage is 342706. For economic injury the number is 9Q3700 for Alaska.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 27, 2002.

**Herbert L. Mitchell,**  
*Associate Administrator for Disaster Assistance.*

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