Code.[8] The interest rate will be reset annually. Interest will be payable annually in arrears on the promissory note's anniversary date. If a promissory note is repurchased by OCC in less than six years from the date of the initial sale of the note, the purchase price of the note will be the principal amount plus any accrued and unpaid interest less a reduction based on the length of time since initial sale.[9] After six years, there would be no reduction, and a promissory note would be redeemable at its aggregate principal amount plus any accrued and unpaid interest. Under the terms of Section VIII of the Noteholders Agreement, OCC's obligations to a noteholder are subordinated to the claims of all other creditors of OCC except that the obligation to repurchase a note from any noteholder ranks *pari passu* with OCC's obligations to repurchase notes from any other noteholders and to repurchase its common stock from any stockholder. The provisions of the Noteholders Agreement are generally parallel to corresponding provisions of the Stockholders Agreement.

III. Discussion

Section 19(b)(2) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.[10] The Commission believes that by allowing OCC to amend its by-laws and rules so that they limit the number of OCC's stockholders and in turn the size of OCC's board, OCC will be better able to continue to work to remove impediments to and perfect the mechanism of the national clearance and settlement system. Accordingly, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F).

Sections 17A(b)(3)(C) and (I) of the Act require that the rules of a clearing agency assure fair representation of its shareholders and participants in the selection of its directors and administration of its affairs and that the rules of a clearing agency do not impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[11] The fact that members of non-equity exchanges that are also members of OCC will participate in the selection of OCC member directors should help to assure fair representation of all OCC's members. OCC's representations to the Commission that OCC's management will provide non-equity exchanges with the opportunity to make presentations to the OCC board and will promptly pass on to non-equity exchanges any information disclosed at or in connection with OCC board meetings that management considers to be of competitive significance should help to ensure that no burden on competition that is not necessary or appropriate in furtherance of the Act will occur.[12] Therefore, the Commission also finds that OCC's rule change is consistent with the requirements of Section 17A(b)(3)(C) and (I).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2002–02) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–23310 Filed 9–12–02; 8:45 am]

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[8] The interest rate for the promissory notes will be equal to the short-term applicable federal rate for purposes of Section 1274(d) of the Internal Revenue Code of 1986.

[9] The amount of the reduction, which is set forth in the Noteholders Agreement, would be $300,000 if the note is purchased by OCC within two years of its original sell date, $240,000 if more than two years but less than three years, $180,000 if more than three years but less than four years, $120,000 if more than four years but less than five years, and $60,000 if more than five years but less than six years.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1(b)(3)(C) and (I).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46468; File No. SR–PCX–2002–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Regarding Anti-Money Laundering Compliance Programs

September 6, 2002.

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 July 29, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On August 29, 2002, the PCX amended the proposed rule change.[3] The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6)[5] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The PCX proposes to adopt PCX Rule 4.25, ''Anti-Money Laundering Compliance Program,'' in order to require each options Member or Member Organization to develop and implement an anti-money laundering compliance program consistent with applicable provisions of the Bank Secrecy Act (''BSA'') and the Regulations thereunder. In addition, the PCX, through its wholly owned subsidiary, PCX Equities, Inc. (''PCXE'' or ''Corporation'') proposes to adopt PCXE Rule 6.17, ''Anti-Money

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* undated letter from Mai S. Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, the PCX requested that the Commission consider the proposed rule change pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A), 17 CFR 240.19b–4(f)(6). The Commission considers the original filing to have satisfied the 5-day pre-filing notice requirement. The PCX asked the Commission to waive the 30-day operative delay. The Commission corrected a typographical error in the proposed rule language without requiring the PCX to file an amendment.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

Laundering Compliance Program,'' in order to require each Equity Trading Permit (''ETP'') Holder to develop and implement an anti-money laundering compliance program consistent with applicable provisions of the BSA and the Regulations thereunder. The text of the proposed rule change is below. Proposed new language is in italics.

Pacific Exchange, Inc.

Rules of the Board of Governors

Rule 4.26 Anti-Money Laundering Compliance Program. Each Member and Member Organization for which the Exchange is the Designated Examining Authority, must develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the Member or Member Organization's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each Member or Member Organization's anti-money laundering program must be approved in writing by a representative of its senior management staff. The anti-money laundering programs required by this Rule must include, at a minimum, a requirement to:

(a) Establish and implement policies, procedures and controls that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and implementing regulations thereunder;

(b) Establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance to be conducted by Member or Member Organization personnel or a qualified outside party;

(d) Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and controls of the program; and

(e) Provide ongoing training for appropriate personnel.

* * * * *

PCX Equities, Inc.

Rules of the Board of Directors

Rule 6.17 Anti-Money Laundering Compliance Program. Each ETP Holder's anti-money laundering program must be approved in writing by a representative of its senior management staff. The anti-money laundering programs required by this Rule must include, at minimum, a requirement to:

(a) Establish and implement policies, procedures and controls that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and implementing regulations thereunder;

(b) Establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance to be conducted by the ETP Holder personnel or a qualified outside party;

(d) Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and controls of the program; and

(e) Provide ongoing training for appropriate personnel.

* * * * *

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 its proposal and discussed any comments it received regarding the proposal. 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.

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

1. Purpose

In 2001, President Bush signed into law the USA PATRIOT Act of 2001 (the ''PATRIOT Act'')[6], which amends among other laws the Bank Secrecy Act as set forth in Title 31 of the United States Code (the ''Code''). The PATRIOT Act expands the powers of the government to fight the war on terrorism and requires that financial institutions, including broker-dealers, implement policies and procedures to that end.

Title III of the PATRIOT Act, separately referred to as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (the ''Money Laundering Act''), focuses on the requirement that financial institutions establish anti-money laundering, monitoring, and supervisory systems.[7] The Money Laundering Act imposes obligations on brokers and dealers through the new provisions and amendments to the BSA. Among other things, brokers and dealers must implement anti-money laundering compliance programs, prepare and file suspicious transaction reports, and follow due diligence procedures. Brokers and dealers are required to comply with these new obligations in addition to complying with existing BSA reporting and record-keeping requirements.[8] The Money Laundering Act Section 352, which amends section 5318(h) of the Code, requires each financial institution to establish anti-money laundering programs by April 24, 2002, that include at a minimum: (1) The development of internal policies, procedures and controls; (2) the designation of a compliance officer; (3) an ongoing employee training program; and (4) an independent audit function to test programs.

The legislative history of the PATRIOT Act explains that the requirement to have an anti-money laundering compliance program is not a ''one-size-fits-all'' requirement. The general nature of the requirements reflect Congress' intent that each financial institution should have the flexibility to tailor the anti-money laundering programs to fit its business, taking into account factors such as size, location, activities of the firm's business and the risks or vulnerabilities to money laundering in the firm. This flexibility is designed to ensure that all entities

[6] USA PATRIOT Act stands for ''Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.''

[7] The statutory definition of ''financial institution'' in the Money Laundering Act is exceptionally broad and encompasses 26 separate categories. *See* 31 U.S.C. 5312(a)(2). Specifically the definition includes, *inter alia*, an insured bank, a commercial bank or trust company, a private banker, an agency or branch of a foreign bank in the United States, a thrift institution, a broker or dealer registered with the Securities and Exchange Commission under the Act (15 U.S.C. 78a *et seq.*), a broker-dealer in securities or commodities, an investment banker or investment company, a currency exchange, an insurance company, a loan or finance company, and any business or agency that engages in any activity that the Secretary of the Treasury determines, by regulation, to be an activity that is similar to, or a substitute for any activity in which any business described in Sec. 5312(a)(2) is authorized to engage.

[8] In addition to the direct requirement of the BSA, and the regulations thereunder, Rule 17a–8 under the Act (17 CFR 240.17a–8) requires broker-dealers to comply with the recordkeeping and reporting requirements of the BSA and related regulations, including the obligation to file reports and make and preserve records in connection with certain transactions generally exceeding $10,000 and involving currency or the physical transport of currency into or out of the United States.

covered by the statute, from very large financial institutions to the small firms, have in place policies and procedures to monitor for anti-money laundering compliance.[9]

The Exchange anticipates providing guidance in the form of a memorandum to assist Members, Member Organizations and ETP Holders in developing an anti-money laundering program that fits their business models and needs.

2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of section 6(b) of the Act,[10] in general, and furthers the objectives of section 6(b)(5),[11] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and national market system and to protect investors and the public interest by establishing minimum requirements for anti-money laundering compliance programs for Exchange Members. The programs are designed to help identify and prevent money laundering that can affect the integrity of the U.S. capital markets.

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

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] 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.

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed rules are consistent with anti-money laundering compliance program rules adopted by other self-regulatory organizations.[14] Acceleration of the operative date will require Exchange Members to establish, implement, and improve anti-money laundering compliance programs without delay. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 number SR–PCX–2002–44 and should be submitted by October 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–23355 Filed 9–12–02; 8:45 am]

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[9] *See* USA PATRIOT Act of 2001: Consideration of H.R. 3162 Before the Senate (October 25, 2001) (statement of Sen. Sarbanes); Financial Anti-Terrorism Act of 2001: Consideration Under Suspension of Rules of H.R. 3004 Before the House of Representatives (October 17, 2001) (statement of Rep. Kelley) (provisions of the Financial Anti-Terrorism Act of 2001 were incorporated as Title III in the USA PATRIOT Act).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] Securities Exchange Act Release Nos. 45798 (April 22, 2002), 67 FR 20854 (April 26, 2002) (SR–NASD–2002–24 and SR–NYSE–2002–10); and 46041 (June 6, 2002), 67 FR 40366 (SR–Phlx-2002–29).

[15] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2002–12689]

Guidelines for Assessing Merchant Mariners Through Demonstrations of Proficiency as Global Marine Distress and Safety System (GMDSS) Radio Operators

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability of, and seeks public comments on, the national performance measures proposed here for use as guidelines when mariners demonstrate their proficiency as GMDSS radio operators. These measures were developed from recommendations and input provided by the Merchant Marine Personnel Advisory Committee (MERPAC).

DATES: Comments and related material must reach the Docket Management Facility on or before November 12, 2002.

ADDRESSES: Please identify your comments and related material by the docket number of this rulemaking [USCG 2002–12689]. Then, to make sure they enter the docket just once, submit them by just one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.