

Nasdaq also proposes to eliminate ADAP because the market for it as a separate data feed has been extremely limited. Nasdaq represents that the cost of maintaining a separate feed that carries redundant information is substantial, and Nasdaq does not recoup its costs from the few distributors choosing to take only ADAP. Nasdaq also believes that eliminating the ADAP feed will enable Nasdaq to reduce its overall costs, enabling greater opportunities to maintain low prices on all data products. Finally, Nasdaq represents that almost all of the current recipients of ADAP already receive the Prime data feed. Nasdaq believes that the elimination of ADAP feed will result in minimal disruption to the current recipients.

The proposed rule change also corrects certain subsection and footnote designations that were inadvertently duplicated in the adoption of SR-NASD-2003-27 and SR-NASD-2003-111. SR-NASD-2003-27 added new subsections (q)(3) and (q)(4) and new footnotes 3, 4, and 5, although footnotes with such numbers already existed in the then-effective rule. Nasdaq proposes to correct the duplicate footnote issue by eliminating all footnotes and adding the footnote text to the rule text or to the new subsection (q)(6) or (q)(7) as appropriate. SR-NASD-2003-111 inadvertently added a second subsection designated as (q)(4), which is redesignated as (q)(5). Nasdaq also proposes other non-substantive changes to the rule to make it more readable and consistent.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,¹⁰ in general and with section 15A(b)(5)¹¹ and 15A(b)(6)¹² of the Act, in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls, and it benefits investors and market data vendors. Under the proposal, one data feed will be expanded and another will be discontinued, but Nasdaq will not change its prices for either distributors or professional or non-professional subscribers. Nasdaq believes that expanding the Prime data feed to cover

all price levels, rather than just the top five price levels, enhances the transparency of the Nasdaq market for both securities professionals and individual investors. In addition, Nasdaq believes that most market data distributors will have an opportunity to reduce their telecommunications charges and/or the number of feeds they receive.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Nasdaq believes that the expansion of the Prime data feed to include all price levels will benefit distributors and subscribers by providing more data at the same price. Nasdaq also believes that this benefit substantially outweighs any potential additional cost to the few distributors receiving only the ADAP feed directly from Nasdaq that may have to increase the bandwidth of their telecommunications lines to receive the new TotalView data feed directly from Nasdaq. Nasdaq represents that the proposed rule change also would not violate any of Nasdaq's contractual obligations.

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

Written comments were neither solicited nor received.

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

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 the proposed rule change, as amended, 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. Comments should be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NASD-2003-162. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy or by e-mail but not by both methods. 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 NASD. All submissions should refer to File No. SR-NASD-2003-162 and should be submitted by January 7, 2004.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48894; File No. SR-PCX-2003-42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. To Amend its Rules Governing the Execution of Complex Orders Involving Options and Single Stock Futures

December 8, 2003.

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 August 15, 2003, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

Level 1. Nasdaq is required under current law to offer the preceding three products. In contrast, the ViewSuite products are proprietary and Nasdaq has no legal obligation to offer them.

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(b)(5).

¹² 15 U.S.C. 78o-3(b)(6).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

change as described in items I, II and III below, which items have been substantially prepared by the PCX. On November 14, 2003, the PCX filed Amendment No. 1 to the proposed rule change.³ 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 amend its rules governing the execution of complex orders involving options and single stock futures ("SSF"). The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Rules of the Board of Governors

Rule 6

Options Trading

"Crossing" Orders and Stock/Option, SSF/Option Orders

Rule 6.47(a)–(e)—No change.

(f) Stock/Option and SSF/Option Orders.

(1) When a stock/option or SSF/option order is taken to a crowd for execution, the stock transaction or SSF transaction must be effected prior to the option transaction pursuant to Rule 6.47, Commentary .04. The following procedure applies to all executions of stock/option and SSF/option orders: After an agreement with other members of the crowd has been reached as to the terms of the transaction, the option order tickets must be written up and time stamped. However, the order tickets should not be turned in to the Order Book Official at this time. The members shall attempt to immediately

effect the transaction in the underlying or related security or SSF. If the stock or SSF transaction cannot be executed immediately or is effected at a price other than the agreed-upon price, the members shall not be held to the option transaction. If the stock or SSF transaction is effected at the agreed-upon price, then all the members who participated in the option transaction shall be held to their agreed-upon price. At the time the stock or SSF transaction is effected, the option trade tickets should be given to the Order Book Official.

(2) SSF/Option Orders Margin Requirements

(a) Any Member or Member Organization must elect to be bound by the initial and maintenance margin requirements of either the Chicago Board of Options Exchange or the New York Stock Exchange as the same may be in effect from time to time;

(b) Such election shall be made in writing by a notice filed with the Exchange.

(c) Upon the filing of such election, a Member will be bound to comply with the margin rules of the Chicago Board of Options Exchange or the New York Stock Exchange, as applicable, as though such rules were part of these rules.

Commentary:

.01–.06—No change.

Certain Types of Orders Defined

Rule 6.62(a)–(i)—No change.

(j) *Combination orders [with no-equity options legs]. One or more legs of a combination order may be to purchase or sell a stated number of units of another security.*

(1) *Stock/option order. A stock/option order is an order to buy or sell a stated number of units of an underlying stock or a [related] security convertible into the underlying stock ("convertible security") coupled with either (A)[(i)] the purchase or sale of option contract(s) [of the same series] on the opposite side of the market representing either the same number of units of the underlying stock or convertible security or the number of units of the underlying stock necessary to create a delta neutral position; [or related security] or (B)[(ii)] the purchase [and] or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date and each representing the same number of units of [the underlying or related security,] stock as, and on the opposite side of the market from, the stock or convertible security portion of the order. [representing in aggregate twice the number of units of the underlying or related security.]*

(2) *Single Stock Future ("SSF")/Option Order. An SSF/option order is an order to buy or sell a stated number of units of a single stock future or a security convertible into a single stock future ("convertible SSF") coupled with either (A) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of stock underlying the single stock future or convertible SSF, or the number of units of stock underlying the single stock future or convertible SSF necessary to create a delta neutral position; or (B) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date, and each representing the same number of units of underlying stock, as and on the opposite side of the market from, the stock underlying the single stock future or convertible SSF portion of the order.*

Priority and Order Allocation Procedures

Rule 6.75. Except as provided by Rule 6.76 below, the following rules of priority shall be observed with respect to bids and offers:

(a)–(d)—No change.

(e) Notwithstanding anything in paragraphs (a) and (b) to the contrary, when a member holding a spread order, a straddle order, or a combination order and bidding or offering on the basis of a total credit or debit for the order has determined that the order may not be executed by a combination of transactions with or within the bids and offers displayed by the Order Book Official or other members, in procedures determined by the Options Floor Trading Committee, then the order may be executed as a spread, straddle, or combination at the total credit or debit with one or more members without giving priority to bids or offers for the individual option series of the Order Book Official or of other members at the post that are no better than the bids or offers comprising such total credit or debit. Under the circumstances described above, a stock/option or SSF/option order has priority over the bids and offers of members in the trading crowd but not over the bids and offers of the Order Book Official.

(f)–(h)—No change.

Commentary:

.01–.04—No change.

Transactions Off the Exchange

Rule 6.78 (a)–(f)—No change.

Commentary:

.01–.02—No change.

.03 To the extent applicable, all other Exchange rules, including Rule 6.49, Solicited Transactions, will apply to the

³ See letter from Mai Sharif Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated November 13, 2003 ("Amendment No. 1") (replacing the form 19b-4 in its entirety). In Amendment No. 1, the Exchange, in part, clarified the margin requirements for members, requiring members who effect SSF/option order transactions to elect to be bound by the initial and maintenance margin requirements of either the Chicago Board Options Exchange ("CBOE") or the New York Stock Exchange ("NYSE"), as those rules may be in effect from time to time. In addition, the Exchange amended the filing to make it immediately effective. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on November 14, 2003, the date the PCX filed Amendment No. 1. In addition, the Exchange made a technical correction to its rule text and amended its discussion of its change to its proposed rule 6.62. Telephone conversation between Mai Sharif Shiver, Senior Attorney, Regulatory Policy, PCX, and Elizabeth MacDonald, Attorney, Division of Market Regulation, Commission, December 8, 2003.

transfer procedure set forth in subsections (d) through (f). The following Rules do not apply to transfer procedures: 6.71 (Meaning of Premium Bids and Offers); 6.74 (Bids and Offers in Relation to Units of Trading); 6.75 (Priority of Bids and Offers); 6.76 (Priority of Split Price Transactions); 6.47 ("Crossing" Orders and Stock/Option, *SSF/Option* Orders); and 7.9 (Meaning of Premium Bids and Offers, Index Options).

.04—No change.

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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 received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange 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

PCX Rule 6.47(f) governs the execution process for complex orders including stock/option orders. The Exchange is proposing to amend this rule to authorize the execution of complex orders involving options and SSFs. The proposed procedures for the execution of SSF/option orders are virtually identical to the existing stock/option procedure and would permit members to enter SSF/option orders. As with stock/option orders, the option leg of the transaction would have priority over the bids (offers) of members at the same price in the trading crowd but not over bids (offers) in the limit order book.

When an SSF/option order is represented in the crowd for execution, the SSF transaction must be effected prior to the option leg of the trade pursuant to PCX Rule 6.47, Commentary .04. As with stock/option orders, if the parties are unable to execute the SSF leg of the transaction due to a change in market conditions, then they could cancel the option leg of the transaction. If the stock or SSF transaction is effected at the agreed-upon price, then all the members who participated in the option transaction shall be held to their agreed-upon price. At the time the stock or SSF transaction is effected, the option

trade tickets should be given to the Order Book Official.

The Exchange also seeks to add a margin requirement as proposed PCX Rule 6.47(f)(2) that would require a Member or Member Organization who effects SSF/option order transactions to elect to be bound by the initial and maintenance margin requirements of either the CBOE or the NYSE as those rules may be in effect from time to time. The Member or Member Organization will be required to make its election in writing and file the same to the Exchange's Financial and Operational Compliance Department. Upon filing of the election, the Member or Member Organization will be bound to comply with the margin rules of the CBOE or the NYSE, as applicable, as though such rules were incorporated into the Exchange's rules.⁴

The Exchange also seeks to amend its Rule 6.62 that defines certain types of orders. Specifically, the Exchange seeks to modify PCX Rule 6.62(j) (Combination Orders) in order to: (i) Add a definition for SSF/option order types and (ii) modify the definition of stock/option order that correlates with the new proposed SSF definition. The Exchange proposes new PCX Rule 6.62(j)(2) in order to define a SSF/option order as an order to buy or sell a stated number of units of a single stock future or a security convertible into a SSF⁵ coupled with either: (A) the purchase or sale of option contracts on the opposite side of the market representing the same number of units of stock underlying the SSF or convertible SSF or the number of units of stock underlying the SSF or convertible SSF necessary to create a delta neutral position, or (B) the purchase or sale of an equal number of put and call option contracts each having the same exercise price, expiration date, and representing the same number of units of underlying stock as, and on the opposite side of, the market from the stock underlying the single stock future or convertible SSF portion of the order. The proposed definition is identical to that used by the ISE.⁶

The Exchange also seeks to modify PCX Rule 6.62(j)(1) in order to amend its existing definition of stock/option order so that its provisions are parallel to its

⁴ This proposal is substantially similar to Rule 1202 of the International Securities Exchange ("ISE").

⁵ To the extent that "a security convertible into a SSF" means an option on a SSF, the Commission notes that trading of such products has not yet been approved by the Commission and the Commodity Futures Trading Commission. Nothing in this notice should be interpreted as granting such approval.

⁶ See ISE Rule 722.

newly proposed definition for SSF/option orders and identical to the definition used by ISE Rule 722.

The Exchange proposes to amend PCX Rule 6.75 regarding priority and order allocation procedures in order to clarify that in addition to stock/option orders, SSF/option orders will also have priority over the bids and offers of members in the trading crowd but not over bids and offers of the Order Book Official.

The Exchange proposes to amend PCX Rule 6.78, Commentary .03 regarding transactions off of the Exchange in order to clarify that SSF will be included as a component of the rules that do not apply to transfer procedures off the floor as set forth in sub-sections (d) through (f) of PCX Rule 6.78.

2. Statutory Basis

The PCX believes that the rule change is consistent with section 6(b) of the Act in general⁷ and section 6(b)(5) of the Act in particular.⁸ The Exchange believes that the proposed rule change is intended to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes that making additional complex orders involving options and SSFs available to investors will offer investors new trading opportunities on the Exchange and enhance the Exchange's competitive position.

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

The proposed rule change does not 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 Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing proposed rule change, as amended, does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if the proposal is consistent with the protection of investors and the public interest; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing, or such shorter time as designated by the Commission, it has become effective pursuant to section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder. 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.¹¹

The PCX has requested the Commission to waive the 30-day operative delay. The Commission has decided to waive the 30 day operative delay. The Commission believes such waiver is consistent with the protection of investors and the public interest. The Commission notes that PCX's proposal is substantially similar to ISE's rules.¹² For these reasons, the Commission designates the proposal to be effective and operative upon filing of Amendment No. 1 with the Commission.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amended 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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-PCX-2003-42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy or by e-

mail, but not by both methods. 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-2003-42 and should be submitted by January 7, 2004.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-31072 Filed 12-16-03; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3560]

State of Texas

Harris County and the contiguous counties of Brazoria, Chamber, Fort Bend, Galveston, Liberty, Montgomery and Waller in the State of Texas constitute a disaster area due to excessive rain, flooding and tornadoes that occurred November 17 through November 18, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 9, 2004, and for economic injury until the close of business on September 8, 2004, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Road, Fort Worth, TX 76155-2243.

The interest rates are:

For Physical Damage:

Homeowners with credit available elsewhere: 6.250%;
Homeowners without credit available elsewhere: 3.125%;
Businesses with credit available elsewhere: 6.123%;
Businesses and non-profit organizations without credit available elsewhere: 3.061%;
Others (including non-profit organizations) with credit available

elsewhere: 4.875%.

For Economic Injury:

Businesses and small agricultural cooperatives without credit available elsewhere: 3.061%.

The number assigned to this disaster for physical damage is 356006 and for economic injury the number is 9Y3900.

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

Dated: December 8, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03-31080 Filed 12-16-03; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3561]

Commonwealth of Virginia

As a result of the President's major disaster declaration on December 9, 2003, I find that the Independent City of Galax, and the counties of Bland, Buchanan, Giles, Smyth, and Tazewell in the Commonwealth of Virginia constitute a disaster area due to damages caused by severe storms and flooding occurring on November 18, 2003 and continuing through November 19, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 9, 2004 and for economic injury until the close of business on September 9, 2004 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303-1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Carroll, Craig, Dickenson, Grayson, Montgomery, Pulaski, Russell, Washington, and Wythe Counties in the Commonwealth of Virginia; McDowell, Mercer, Mingo, Monroe, and Summers Counties in the State of West Virginia; and Pike County in the Commonwealth of Kentucky.

The interest rates are:

For Physical Damage:

Homeowners with credit available elsewhere: 6.250%;
Homeowners Without Credit Available Elsewhere: 3.125%;
Businesses with credit available elsewhere: 6.123%;
Businesses and non-profit organizations without credit available elsewhere: 3.061%;
Others (Including non-

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on November 14, 2003, the date the PCX filed Amendment No. 1.

¹² For purposes of accelerating the operative date of the proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(3)(f).

¹³ 17 CFR 200.30-3(a)(12).