

5. Amendments to the three joint industry plans under which consolidated market data for equity securities is disseminated to the public that would modify the formulas for allocating plan net income and create non-voting advisory committees, and amendments to current Exchange Act Rules 11Aa3-1 and 11Ac1-2 (redesignated as Rule 601 and 603 of Regulation NMS) that would modify the requirements for consolidation and display of market data.

For further information, please contact Yvonne Fraticelli at (202) 942-0197 (Reg NMS Proposal); Jennifer Colihan at (202) 942-0735 (Trade-Through Proposal); Patrick Joyce at (202) 942-0779 (Access Proposal); Ronesha Butler at (202) 942-0791 (Sub-Pennies Proposal); or Sapna Patel at (202) 942-0166 (Market Data Proposal).

The subject matter of the Open Meeting scheduled for Wednesday, February 25, 2004 will be:

The Commission will consider a recommendation to propose for public comment rule 22c-2 under the Investment Company Act of 1940. The recommended proposal would require open-end investment companies to impose a two percent redemption fee on the redemption of shares held for five business days or fewer. The Commission also will consider whether to ask for comment about additional ways to address market timing.

For further information, please contact Shaswat Das, Senior Counsel, Division of Investment Management, at (202) 942-0650.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: February 17, 2004.

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49225; File No. SR-PCX-2003-62]

Self-Regulatory Organizations; Pacific Exchange, Inc; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to Initial Listing Requirements for Securities Listed Under the Tier I and Tier II Designations

February 12, 2004.

On November 4, 2003, the Pacific Exchange, Inc. ("PCX" or "Exchange"), through its wholly owned subsidiary, PCX Equities, Inc. ("PCXE"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend PCXE Rules 5.2(c)(4) and 5.2(k)(4) to replace the term "non-recurring" with the term "income from continuing operations," a term which is recognized under Generally Accepted Accounting Principles ("GAAP"). The proposed rule change also amends PCXE Rule 5.2(c)(4) to eliminate the requirement that an issuer have net income of at least \$400,000, excluding non-recurring and extraordinary items. The Exchange submitted an amendment to the proposed rule change on December 17, 2003.³ The proposed rule change, as amended, was published for comment in the **Federal Register** on January 9, 2004.⁴ The Commission received no comment letters on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁵ and, particularly, section 6(b)(5) of the Act.⁶ The Commission believes that amending PCXE Rules 5.2(c)(4) and 5.2(k)(4) to replace the term "non-recurring" with the term "income from continuing operations," a term which is recognized under GAAP, promotes just and equitable principles of trade and is not designed to permit unfair

discrimination among issuers. The Commission notes that removing from PCXE Rule 5.2(c)(4) the requirement that an issuer have net income of at least \$400,000, excluding non-recurring and extraordinary items, conforms to the initial listing requirements of another exchange.⁷ The Commission further notes that the proposed rule change merely clarifies the Exchange's current listing standards and is not designed to make the Exchange's listing standards more or less restrictive or alter the method upon which the Exchange calculates whether an issuer satisfies these standards.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change, as amended, (SR-PCX-2003-62) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.
ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before March 22, 2004. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On December 17, 2003, the Exchange filed a Form 19b-4, which replaced the original filing in its entirety ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 49013 (December 31, 2003), 69 FR 1610.

⁵ In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

⁷ See American Stock Exchange LLC Company Guide section 101(a)(2).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).