

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50082; File No. SR-PCX-2004-68]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Extension of a Linkage Fee Pilot Program

July 26, 2004.

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 July 15, 2004, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On July 21, 2004, the PCX filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change, as amended, on an accelerated basis.

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

The Exchange is proposing to amend its Schedule of Fees and Charges For Exchange Services to extend until July 31, 2005 the current pilot program regarding transaction fees charged for trades executed through the intermarket options linkage ("Linkage"). The text of the proposed fee schedule is available at the principal office of Exchange and at the Commission's Public Reference Room.

#### 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 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. The text of these

statements may be examined at the places specified in Item III below. The self-regulatory organization 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

The purpose of this proposed rule change is to extend for one year the pilot program establishing PCX fees for Principal ("P") Orders and Principal Acting as Agent ("P/A") Orders executed through Linkage. The fees currently are effective for a pilot program set to expire on July 31, 2004, and this filing would extend the fees through July 31, 2005. The two fees the PCX charges for P and P/A Orders are: the \$.21 per contract side basic execution fees for trading on the PCX and a \$.05 comparison fee per contract side. These are the same fees that all PCX Option Trading Permit Holders pay for non-customer transactions executed on the Exchange. The Exchange does not charge for the execution of Satisfaction Orders sent through Linkage and is not proposing to charge for such orders.

##### 2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,<sup>4</sup> in general, and section 6(b)(4),<sup>5</sup> in particular, in that it provides for the equitable allocation of dues, fees and other charges among its members and other persons using its facilities for the purpose of executing P and P/A Orders that are routed to the Exchange from other market centers.

#### 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

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

### III. 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. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PCX-2004-68 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-PCX-2004-68. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PCX-2004-68 and should be submitted on or before August 20, 2004.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> CFR 240.19b-4.

<sup>3</sup> See letter from Steven B. Matlin, Senior Counsel, Regulatory Policy, PCX to Nancy Sanow, Assistant Director, Commission, dated July 20, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange proposes to make technical corrections to the Schedule of Fees and Charges for Exchange Services, originally submitted as Exhibit A to the proposed rule change.

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

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

and regulations thereunder, applicable to a national securities exchange,<sup>6</sup> and, in particular, with the requirements of section 6(b) of the Act<sup>7</sup> and the rules and regulations thereunder. The Commission finds that the proposed rule change, as amended, is consistent with section 6(b)(4) of the Act,<sup>8</sup> which requires that the rules of the Exchange provide for the equitable allocation or reasonable dues, fees and other charges among its members and other persons using its facilities. The Commission believes that the extension of the Linkage fee pilot until July 31, 2005 will give the Exchange and the Commission further opportunity to evaluate whether such fees are appropriate.

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,<sup>9</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval will preserve the Exchange's existing pilot program for Linkage fees without interruption as the PCX and the Commission further consider the appropriateness of Linkage fees.

**V. Conclusion**

It is therefore ordered, pursuant to section 19(b)(2) of the Act<sup>10</sup> that the proposed rule change, as amended, (SR-PCX-2004-68) is hereby approved on an accelerated basis for a pilot period to expire on July 31, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-17386 Filed 7-29-04; 8:45 am]

**BILLING CODE 8010-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Economic Injury Disaster #9ZN2]**

**State of Alaska**

Fairbanks North Star Borough and the Alaska Gateway Regional Education Attendance Area (REAA) and the contiguous areas of Denali Borough, Copper River REAA, Delta/Greely REAA, Yukon Flats REAA, and the

Yukon-Koyukuk REAA in the State of Alaska constitute an economic injury disaster area as a result of wildfires that began on June 7, 2004, and continue to burn. The wildfires were caused by lightning strikes, hot temperatures, low humidity, winds and prevailing dry conditions and have caused businesses to suffer substantial economic losses due to smoke and road closures. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance for this disaster until the close of business on April 22, 2005, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 419004, Sacramento, CA 95610.

The interest rate for eligible small businesses and small agricultural cooperatives is 2.750 percent.

The number assigned for economic injury for this disaster is 9ZN200.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: July 22, 2004.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 04-17435 Filed 7-29-04; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster # 3599]**

**State of Maryland**

Cecil County and the contiguous counties of Harford and Kent in the State of Maryland; New Castle County in the State of Delaware; and Chester and Lancaster Counties in the Commonwealth of Pennsylvania constitute a disaster area as a result of flooding that occurred on July 12 and 13, 2004. Applications for loans for physical damage as a result of the disaster may be filed until the close of business on September 21, 2004 and for economic injury until the close of business on April 25, 2005 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

|   | Percent |
|---|---------|
| For Physical Damage:                                |         |
| Homeowners With Credit Available Elsewhere .....    | 5.750   |
| Homeowners Without Credit Available Elsewhere ..... | 2.875   |

|   | Percent |
|---|---------|
| Businesses With Credit Available Elsewhere .....  | 5.500   |
| Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....        | 2.750   |
| Others (Including Non-Profit Organizations) With Credit Available Elsewhere .....       | 4.875   |
| For Economic Injury:  |         |
| Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere ..... | 2.750   |

The number assigned to this disaster for physical damage is 359906 for Maryland, 360006 for Delaware, and 360106 for Pennsylvania. The number assigned to this disaster for economic injury is 9ZM800 for Maryland, 9ZM900 for Delaware, and 9ZN100 for Pennsylvania.

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

Dated: July 23, 2004.

**Hector V. Barreto,**

*Administrator.*

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**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3595]**

**State of Michigan; Amendment #1**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective July 22, 2004, the above numbered declaration is hereby amended to include Eaton, Muskegon, Saginaw, and Washtenaw Counties as disaster areas due to damages caused by severe storms, tornadoes, and flooding occurring on May 20 and continuing through May 24, 2004.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Oceana in the State of Michigan may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 30, 2004, and for economic injury the deadline is March 30, 2005.

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

<sup>6</sup>In approving this rule, the Commission notes that it has considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> *Id.*

<sup>11</sup> 17 CFR 200.30-3(a)(12).