

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51014; File No. SR-PCX-2004-83]

Self-Regulatory Organizations; Order Approving Proposed Rule Change, and Amendment No. 1 Thereto, by the Pacific Exchange, Inc. Relating To Changing the Opening Time and the Commencement of the Opening Auction on the Archipelago Exchange

January 10, 2005.

On October 22, 2004, the Pacific Exchange, Inc. ("PCX" or "Exchange"), through its wholly owned subsidiary PCX Equities, Inc. ("PCXE") submitted to 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 change the opening time and the commencement of the Opening Auction of its facility, the Archipelago Exchange ("ArcaEx"), from 5 a.m. (Pacific time) to 1 a.m. (Pacific time) and modify PCXE Rules 7.34 and 7.35, respectively. On November 22, 2004, the PCX submitted Amendment No. 1 to the proposed rule change.³ The **Federal Register** published the proposed rule change for comment on December 6, 2004.⁴ The Commission received no comments on the proposed rule change, as amended.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.⁵ In particular, the Commission believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5),⁷ in

particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest. The Commission believes that the proposed rule change is reasonably designed to provide additional liquidity for customers seeking to participate in the Nasdaq-listed and exchange-listed markets by extending the ArcaEx's Opening Auction during the hours before the primary markets open for trading. The Commission believes that having a PCX Market Management staff member on-site at the ArcaEx facility beginning at 1 a.m. (Pacific time), in conjunction with the Exchange's employment of third-party data vendors, should enable the Exchange to coordinate its trading halts with those that are instituted for regulatory reasons by the primary markets, including the foreign markets with whom the PCX represents it is establishing contacts. In addition, this arrangement should permit the Exchange to exercise its discretion to institute a trading halt on ArcaEx when the trading halt is for a non-regulatory reason.

Further, the Commission recognizes that the Exchange has represented that the PCX Market Management staff member will be able to monitor the quoting and trading activity of its Users⁸ during that time period. In addition, the Commission notes that the Exchange has represented that it will not begin trading at 1 a.m. (Pacific time) until the Securities Information Processors ("SIPs" are ready to accommodate quoting and trading beginning at 1 a.m. (Pacific time) and have provided ArcaEx with notification that they are prepared to disseminate quotes and trades at that time. The Commission believes that this precondition to commencing trading a 1 a.m. (Pacific time) is appropriate because the quote and trade data disseminated by SIPs are fundamental to market transparency.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change, as amended, (SR-PCX-2004-83) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jill M. Peterson,

Assistant Secretary.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB) Office of Management and Budget, Fax: 202-395-6974.

(SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235; Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

1. *Report of Death by Funeral Director—20 CFR 404.715, 404.720, 416.635—0960-0142.* SSA uses the information on form SSA-721 to make timely and accurate decisions based on

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superceded the original filing in its entirety.

⁴ Securities Exchange Act Release No. 50756 (November 30, 2004), 69 FR 70489.

⁵ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ See PCXE Rule 1.1(yy).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

the report of death including: (1) Proving the death of an insured individual, (2) learning of the death of a beneficiary whose benefits should terminate, and (3) determining who is eligible for the Lump-Sum Death Payment (LSDP) or may be eligible for benefits. The respondents are funeral directors with knowledge of the fact of death.

Type of Request: Extension of an OMB-approved information collection.
Number of Respondents: 741,113.
Frequency of Response: 1.
Average Burden Per Response: 3.5 minutes.

Estimated Annual Burden: 43,231 hours.

2. *Statement Regarding Contributions—20 CFR 360–366 and 404.736—0960–0020.* The determination of one-half support or contributions to support must be made to entitle certain child applicants to Social Security benefits. SSA uses form SSA–783 to collect the information necessary to make such a determination. The respondents are persons giving information about a child's sources of support for entitlement to child's benefits.

Type of Request: Extension of an OMB-approved information collection.
Number of Respondents: 30,000.
Frequency of Response: 1.
Average Burden Per Response: 17 minutes.

Estimated Annual Burden: 8,500 hours.

3. *Appointment of Representative—20 CFR 404.1707, 404.1720, 404.1725, 410.684 and 416.1507—0960–0527.* The information collected by SSA on form SSA–1696–U4 is used to verify the applicant's appointment of a representative. It allows SSA to inform the representative of items which affect the applicant's claim. The affected public consists of applicants who notify SSA that they have appointed a person to represent them in their dealings with SSA when claiming a right to benefits.

Type of Request: Revision of an OMB-approved information collection.
Number of Respondents: 551,520.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 91,920 hours.

4. *Employee Work Activity Questionnaire—20 CFR 404.1574, 404.1592—0960–0483.* When a possible unsuccessful work attempt or a subsidy is involved, as described in regulations 20 CFR 404.1574(a)(1), (2) and (3), form SSA–3033 is used to request a description of the employee's work

effort. The data is evaluated to determine if the claimant meets the disability requirements of the law. The information is collected through form SSA–3033 or by telephone contact, only in cases where it cannot be obtained through electronic data matches with other Federal agencies and/or State agencies.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 15,000.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 3,750 hours.

5. *Petition To Obtain Approval of a Fee for Representing a Claimant Before the Social Security Administration—20 CFR Subpart R—404.1720, 404.1725, Subpart F, 410.686b, Subpart O, 416.1520 and 416.1525—0960–0104.* A representative of a claimant for Social Security benefits must file either a fee petition or a fee agreement with SSA in order to charge a fee for representing a claimant in proceedings before SSA. The representative uses form SSA–1560 to petition SSA for authorization to charge and collect a fee. A claimant may also use the form to agree or disagree with the requested fee amount or other information the representative provides on the form. SSA uses the information to determine a reasonable fee that a representative may charge and collect for his or her services. The respondents are claimants, their attorneys and other persons representing them.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 34,624.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 17,312 hours.

6. *Authorization to Obtain Earnings Data From the Social Security Administration—0960–0602.* The information collected on form SSA–581 is used to verify the authorization of the wage earner, or other party, to access the correct earnings record and disposition of the response. This access is required in order to produce an itemized statement for release to the proper third party. The respondents are individuals, and various private/public organizations/agencies needing detailed earnings information.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 60,000.
Frequency of Response: 1.
Average Burden Per Response: 2 minutes.

Estimated Average Burden: 2,000 hours.

7. *Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—20 CFR 404.720 and 404.721—0960–0002.* SSA will use the information collected on form SSA–723 in making its determination that the missing person may be presumed deceased and, if so, to establish a date of presumed death. The respondents are persons who have knowledge about the disappearance of the missing person.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 3,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 1,500 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Reporting Events—SSI—20 CFR 416.701–.732—0960–0128.* SSA administers Federal Supplemental Security Income (SSI) benefits under title XVI of the Social Security Act. SSI is a public assistance program that provides benefits to individuals who are disabled, blind, or aged and who have limited income and resources. To assure proper administration of SSI benefits, SSA periodically requests information from individuals to reevaluate their continuing SSI eligibility and payment amount using Form SSA–8150–EV. The form serves as a reminder to individuals as to what they need to report in order to retain their benefits. Form SSA–8150–EV provides individuals with a way to report changes in their circumstances in writing. SSA uses the reported changes to determine SSI eligibility and correct payment amounts.

Type of Request: Extension of an OMB-approved information collection.
Number of Respondents: 30,180.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 2,515 hours.

2. *Cessation or Continuance of Disability or Blindness Determination and Transmittal—20 CFR 404.1615, 20 CFR 404.1512, and 20 CFR 404.1588–1599—0960–0442.* Form SSA–833–C3/

U3 is used by Disability Determination Services (DDS) to prepare continuance and cessation determinations of disability or blindness on Title II claims. The information is used in the course of the Federal SSA quality review of the determination. Form SSA-833-C3/U3 is also used to provide for SSA input on automated systems controls, *e.g.* establish and/or cancel diary controls, to establish a permanent longitudinal history of the claim, and to supply a statistical base to provide aggregate program information to SSA administrators, Congress, and the President.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 303,564.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 151,782 hours.

3. Application to Collect a Fee for Payee Services—0960-NEW.

Information requested on form SSA-445 will be provided by the fee for payee services applicant. SSA will be the only user of this information. By using form SSA-445, SSA will be able to determine whether the applicant meets the requirements to become a fee for service organizational payee, and if the applicant has provided all the information and documentation required. Based on the information provided on form SSA-445, SSA will issue a determination authorizing or denying permission to collect fees for payee services.

Type of Request: New information collection.

Number of Respondents: 100.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 5 hours.

4. Agreement to Sell Property—20 CFR 416.1240-1245—0960-0127.

Individuals or couples who are otherwise eligible for SSI benefits, but who's resources exceed the allowable limit, may receive conditional payments if they agree to dispose of the excess non-liquid resources and make repayment. Form SSA-8060-U3 is used to document this agreement and to ensure that the individuals understand their obligations. Respondents are applicants and recipients of SSI benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 20,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 3,333 hours.

5. *Epidemiological Research Request—20 CFR 401.165—0960-NEW.* Section 311 of the Social Security Independence and Program Improvements Act of 1994 directed SSA to provide support to health researchers involved in epidemiological research. Specifically, when the study is determined to contribute to a national health interest, SSA will furnish information regarding whether a study subject is shown on the SSA administrative records as being alive or deceased (vital status). SSA will recoup all expenses incurred in providing this information. SSA collects information from health researchers in order to provide the data required and to collect fees. Respondents are applicants for vital status information.

Type of Request: Collection in use without OMB number.

Number of Respondents: 25.

Frequency of Response: 1.

Average Burden Per Response: 120 minutes.

Estimated Annual Burden: 50 hours.

6. *Student Reporting Form—20 CFR 404.367, 404.368, 404.415, 404.434, 404.452(b)(2)—0960-0088.* Form SSA-1383 is used by Social Security student beneficiaries to report events or changes that may affect continuing entitlement to these benefits. The respondents are Social Security student beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 75,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 7,500 hours.

7. *Electronic Benefit Verification Information—20 CFR 401.40—0960-0595.* SSA provides verification of benefits, when requested, to individuals receiving Title II and/or Title XVI benefits. In order to provide to the public an easy and convenient means of requesting benefit information, SSA has developed an electronic request form that will allow persons to request the information through the Internet. The information collected on the electronic screens will be used by SSA to process the request for a benefit verification statement. To ensure appropriate confidentiality, the statement will be mailed to the recipient/beneficiary address shown in SSA's records. The respondents are Title II and XVI recipients/beneficiaries who request benefit verification information using the Internet.

Type of Request: Extension of an approved OMB information collection.

Number of Respondents: 133,920.

Frequency of Response: 1.

Average Burden Per Response: ½ minute.

Estimated Annual Burden: 1,116 hours.

8. *Listing of Impairments—Part 404, Subpart P, Appendix I—0960-0642.*

Background

The Listing of Impairments (the listings), part 404, subpart P, appendix I, describes for each of the major body systems, impairments which are severe enough to prevent an individual from doing any gainful activity. As part of the listings, we provide an introductory text, which identifies specific requirements that affect the body system, such as documentation requirements and other factors that must be considered when evaluating impairments within that body system. These can include requirements for medical and other evidence. This clearance request covers sections in the following listings that contain information collection requirements: The regulations for the musculoskeletal body system contain reporting requirements at sections 1.00B, 1.00C, 1.00D, 1.00E, 1.00H, 1.00I, 1.00J, 1.00K, 1.00P, 14.09A, 101.00B, 101.00C, 101.00D, 101.00E, 101.00H, 101.00I, 101.00J, 101.00P, and 114.09A. The regulations for the cardiovascular body system contain reporting requirements at sections 4.00B, 4.00C, 4.00D, 4.00E, 4.00F, 4.00G, 4.02A, 104.00B, 104.00C, 104.00E, and 104.06. The regulations for the genitourinary body system contain reporting requirements at sections 6.00C, 6.00E, 6.00G, 106.00C, 106.00E, and 106.00G. The regulations for the skin body system contain reporting requirements at sections 8.00C, 8.00D, 108.00B, 108.00C, and 108.00D. The regulations for the multiple body system contain reporting requirements at sections 10.00B, 10.00C, 110.00B, and 110.00C. The regulations for Amyotrophic Lateral Sclerosis (ALS) contain reporting requirements at sections 11.00G and 11.10. The regulations for the malignant neoplastic diseases contain reporting requirements at 13.00B, 13.00D, 13.00E, 13.00G, 13.00K, 113.00B, 113.00D, 113.00E, 113.00G, and 113.00K.

The Information Collection

The medical evidence documentation described in the listings is used by State DDSs to assess the alleged disability. The information, together with other evidence, is used to determine if an individual claiming disability benefits has an impairment that meets severity and duration requirements. The

respondents are disability applicants and other sources of evidence. SSA uses various forms to collect the information specified in the regulations. The public reporting burden is accounted for in the Information Collection Requests for these forms. Consequently, we are assigning a placeholder of 1-hour to the specific reporting requirements in these listings so that we do not duplicate the burden assigned to the forms.

Type of Request: Extension of an OMB-approved information collection.

9. *Request for Review of Hearing Decision/Order—20 CFR 404.967-.981, 20 CFR 416.1467-.1481—0960-0277.* SSA collects the information on form HA-520 from each claimant for Social Security or SSI benefits who is dissatisfied with the hearing decision or the dismissal of a hearing request and wants to request review of the decision by the Appeals Council. An individual may request Appeals Council review by filing a written request; however, a completed HA-520 ensures that SSA receives the information necessary to establish that the claimant filed the request for review within the prescribed time, that the claimant is a proper party, and that the claimant has completed the requisite steps to permit review by the Appeals Council. The Appeals Council also uses the information provided by the claimant to document the claimant's reason (s) for disagreeing with the ALJ decision or dismissal, to determine whether the claimant has additional evidence to submit, and to determine whether the claimant has a representative or wants to appoint one.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 107,485.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 17,914 hours.

10. *Non-Attorney Representative Demonstration Project Application—0960-NEW.*

Section 303 of the Social Security Protection Act of 2004 (SSPA) provides for a 5-year demonstration project to be conducted by SSA under which the direct payment of SSA approved fees is extended to certain non-attorney claimant representatives. Under the SSPA, to be eligible for direct payment of fees, a non-attorney representative must fulfill the following statutory requirements: (1) Possess a bachelors degree or have equivalent qualifications derived from training and work experience; (2) pass an examination that tests knowledge of the relevant

provisions of the Social Security Act; (3) secure professional liability insurance or equivalent insurance; (4) pass a criminal background check; and (5) demonstrate completion of relevant continuing education courses. Through the services of a private contractor, SSA must collect the requested information to determine if a non-attorney representative has met the statutory requirements to be eligible for direct payment of fees for his or her claimant representation services. The information collection is needed to comply with the legislation. The respondents are non-attorney representatives who apply for direct payment of fees.

Type of Request: New information collection.

Number of Respondents: 500.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 500 hours.

11. *Disability Determination and Transmittal—20 CFR 404.1615(e), 416.1015(f)—0960-0437.* The information collected on form SSA-831-C3/U3 is used by SSA to document the State agency determination as to whether an individual who applies for disability benefits is eligible for those benefits based on his/her alleged disability. SSA also uses form SSA-831-C3/U3 for program management and for evaluation. The respondents are State DDSs adjudicating Title II and Title XVI disability determinations for SSA.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 3,155,120.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 788,780 hours.

12. *State Mental Institution Policy Review—20 CFR 416 Subpart U, 20 CFR 416 Subpart F, 20 CFR 404.2035 and .2065, 20 CFR 416.635 and .665—0960-0110.* SSA sends form SSA-9584-BK to State mental institutions that participate in SSA's representative payee onsite review program. As a representative payee, the State mental institution has the responsibility to receive and administer payments to beneficiaries who have been determined by SSA to be incapable of managing benefits. SSA is required by law and regulations to monitor representative payees' use of benefits. Under the onsite review program, SSA conducts a triennial review of State mental institutions in order to determine whether the institutions; policies and practices conform with SSA's regulations in the

use of benefits, and the other duties and responsibilities required of representative payees.

The form obtains information needed by the SSA review team (comprised of representatives from SSA's regional and field offices), and provides a basis for conducting the actual onsite review. In addition, the information is used in the preparation of the subsequent report of findings and recommendations, which is issued to the institutions.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 100.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 100 hours.

Dated: January 11, 2005.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 05-868 Filed 1-14-05; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Andean Trade Preference Act (ATPA), as Amended: Notice Regarding the 2003 and 2004 Annual Reviews

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) received petitions in September 2004 to review certain practices in certain beneficiary developing countries to determine whether such countries are in compliance with the ATPA eligibility criteria. In a November 15, 2004 notice, USTR published a list of responsive petitions that were accepted for review. This notice specifies the results of the preliminary review of those petitions as well as the status of the petitions filed in 2003 that have remained under review.

FOR FURTHER INFORMATION CONTACT:

Bennett M. Harman, Deputy Assistant U.S. Trade Representative for Latin America, at (202) 395-9446.

SUPPLEMENTARY INFORMATION: The ATPA (19 U.S.C. 3201 *et seq.*), as renewed and amended by the Andean Trade Promotion and Drug Eradication Act of 2002 (ATPDEA) in the Trade Act of 2002 (Public Law 107-210), provides trade benefits for eligible Andean countries. Pursuant to section 3103(d) of the ATPDEA, USTR promulgated regulations (15 CFR part 2016) (68 FR 43922) regarding the review of