

access period for current non-NASD member broker-dealer system users proposed in this filing.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of section 15A of the Act,<sup>9</sup> in general, and with section 15A(b)(6) of the Act,<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of trade, and to remove impediments to a free and open market and a national market system.

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

Nasdaq does not believe that the proposed rule change, as amended, will result in 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 were neither solicited nor received.

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

The foregoing proposed rule change, as amended, is subject to section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder<sup>12</sup> because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that Nasdaq has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

Nasdaq has requested that the Commission waive the five-day pre-filing requirement and the 30-day operative delay. The Commission believes that waiving the five-day pre-filing requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will permit

current non-NASD member broker-dealers continued access to the Brut system without disruption. In addition, the Commission notes that the proposed rule's February 8, 2006 date matches the date for which non-NASD members are required to leave Nasdaq's INET facility. For these reasons, the Commission designates the proposed rule change, as amended, to be effective and operative upon filing with the Commission.<sup>13</sup>

At any time within 60 days of the filing of such proposed rule change, as amended, 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.<sup>14</sup>

## 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. 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-NASD-2006-002 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASD-2006-002. 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

<sup>13</sup> 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).

<sup>14</sup> The effective date of the original proposed rule change is January 3, 2006 and the effective date of Amendment No. 1 is January 12, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 12, 2006, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

amendments, all written statements with respect to the proposed rule change, as amended, 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 the filing also will be available for inspection and copying at the principal office of the NASD. 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-NASD-2006-002 and should be submitted on or before February 14, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6-777 Filed 1-23-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53117; File No. SR-PCX-2005-87]

### Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change, and Amendment No. 1 Thereto, Relating to the Tracking Order Process

January 13, 2006.

## I. Introduction

On July 26, 2005, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to replace the existing PCXE rules describing its current tracking order process ("Tracking Order Process")<sup>3</sup> with new provisions for the Tracking Order Process. The PCX filed Amendment No. 1 to the proposed rule

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See PCXE Rule 7.37(c).

<sup>9</sup> 15 U.S.C. 78o-3.

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

change on November 22, 2005.<sup>4</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on December 13, 2005.<sup>5</sup> The Commission received no comments on the proposed rule change, as amended.

## II. Description

The PCX proposes to amend its rules governing the Archipelago Exchange (“ArcaEx”), the equities trading facility of PCXE. Specifically, the Exchange proposes to restructure its Tracking Order Process by modifying the current rule text governing the Tracking Order Process<sup>6</sup> to implement a process based on the submission of orders, rather than instructions, to be executed in price/time priority.<sup>7</sup>

PCX represents that the purpose of the Tracking Order Process is to provide a final opportunity for execution against any remaining liquidity on the ArcaEx system before routing to an away market center.<sup>8</sup> Under the proposed rule change, as is currently the case, if an order submitted to the ArcaEx has not been executed in its entirety after progressing through ArcaEx’s directed order, display order and working order processes,<sup>9</sup> the order (or the remaining portion of the order) would enter the Tracking Order Process. An incoming order would be matched to Tracking Orders held in the Tracking Order Process based on the price and time the Tracking Order was received. Under the proposal, a “Tracking Order” is an undisplayed, priced round lot order that is eligible for execution in the Tracking Order Process against an order equal to or less than the aggregate size of Tracking Order interest available at that price.<sup>10</sup> Tracking Orders would execute only if the price of the Tracking Order is equal to or better than the national best bid or offer (“NBBO”).<sup>11</sup> Pursuant to the proposed rule change, odd lot orders would continue to be matched to odd lot tracking orders held in the Tracking Order Process in accordance with a user’s<sup>12</sup> set parameters, such as maximum aggregate size, maximum

tradeable size, and the price (which is set at the NBBO).<sup>13</sup>

## III. Discussion

After careful review, 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 exchange.<sup>14</sup> In particular, the Commission finds that the proposal, as amended, is consistent with Section 6(b)(5) of the Act,<sup>15</sup> which requires, among other things, that a national securities exchange’s rules be designed to prevent fraudulent and manipulative acts and practices, 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 to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that under the proposal, incoming orders executed in the Tracking Order Process should be executed in a manner equivalent to that under PCX’s existing rules, but that the proposed rule change should simplify the process for entering Tracking Orders. Thus, the Commission believes that the proposed changes to the Tracking Order Process do not raise any new issues or regulatory concerns. The Commission notes that an order may not be executed pursuant to the new Tracking Order Process at a price that is inferior to the NBBO.<sup>16</sup> Furthermore, the Commission notes that any order that is not executed in its entirety pursuant to one of ArcaEx’s other order execution processes is eligible for matching and execution pursuant to the Tracking Order Process, and that any User of the ArcaEx system may submit a Tracking Order.<sup>17</sup>

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-PCX-2005-

87), as amended by Amendment No.1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-772 Filed 1-23-06; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10316 and # 10317]

### Oklahoma Disaster # OK-00002

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA-1623-DR), dated 01/10/2006 .

*Incident:* Severe Wildfire Threat.

*Incident Period:* 12/01/2005 and continuing.

*Effective Date:* 01/10/2006.

*Physical Loan Application Deadline Date:* 03/13/2006.

*Economic Injury (EIDL) Loan Application Deadline Date:* 10/10/2006.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President’s major disaster declaration on 01/10/2006, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (physical damage and economic injury loans):

Canadian, Cotton, Garvin, Hughes, Lincoln, Logan, Mayes, Okfuskee, Oklahoma, Pottawatomie, Seminole, Stephens.

Contiguous Counties (Economic Injury Loans Only):

Oklahoma: Blaine, Caddo, Carter, Cherokee, Cleveland, Coal, Comanche, Craig, Creek, Delaware, Garfield, Grady, Jefferson, Kingfisher, McClain, McIntosh,

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>4</sup> Amendment No. 1, which replaced the original filing in its entirety, made technical and clarifying changes to the proposed rule change.

<sup>5</sup> See Exchange Act Release No. 52898 (Dec. 6, 2005), 70 FR 73811 (Dec. 13, 2005) (“Notice”).

<sup>6</sup> See PCXE Rule 7.37(c).

<sup>7</sup> See proposed PCXE Rule 7.31(f).

<sup>8</sup> See Notice.

<sup>9</sup> See PCXE Rule 7.37 for a description of the ArcaEx execution processes that precede the Tracking Order Process, including the directed process, display process, and working order process. See also proposed PCX Rule 7.37(c).

<sup>10</sup> See Proposed PCXE Rule 7.31(f).

<sup>11</sup> See PCXE Rule 7.37.

<sup>12</sup> “User” is defined in PCXE Rule 1.1(yy).

<sup>13</sup> See current and proposed PCXE Rule 7.31(g) for a definition of the odd lot tracking order and proposed PCXE Rule 7.37(c) for a description of the odd lot tracking order process.

<sup>14</sup> In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>16</sup> See PCXE Rule 7.37.

<sup>17</sup> As is currently the case, only an “Odd Lot Dealer,” as defined in PCXE Rule 1.1(gg), may submit an odd lot tracking order. See current and proposed PCXE Rule 7.31(g).

<sup>18</sup> 15 U.S.C. 78s(b)(2).