

and liquidity; and (3) examines the use of automatic execution systems for the pilot stocks, Nasdaq's Small Order Execution System ("SOES"), and some private systems to assess whether investors continue to have reasonable access to market maker capital.

The NASD asserts that the evidence analyzed in the study reveals that the pilot stocks and non-pilot stocks have experienced virtually the same improvements in market quality since implementation of the SEC's Order Handling Rules. Specifically, the NASD says that it found no statistically significant basis to conclude that the market quality of the pilot stocks has been affected as a result of removal of the 1,000-Share Quote Size Rule. In addition, the NASD found that investors in the pilot stocks continue to have substantial and reasonable access to market maker capital through both SOES and market makers' proprietary automatic execution systems.

In order to give the public additional time to comment on this analysis, the comment period for the NASD's current proposal has been extended at the Commission's request to July 3, 1997. A copy of the report is available in the Commission's Public Reference room in File No. SR-NASD-97-26.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 number SR-NASD-97-26 and should be submitted by July 3, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38712; File No. SR-PCX-97-19]

June 3, 1997.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc., Relating to Its Specialist Evaluation Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 29, 1997, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The PCX is proposing to extend its pilot program regarding the evaluation of its equity specialists until January 1, 1998. In addition, the Exchange is proposing to implement certain changes to the pilot program.

Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 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

On October 1, 1996, the Commission approved a nine-month pilot program for the evaluation of PCX equity

specialists.¹ The Exchange is now proposing to extend the pilot program for an additional six month period, until January 1, 1998. The reason for the extension is that the Exchange needs more time to evaluate the impact of the SEC's new order handling rules² on the performance criteria. During the extension of the pilot, the Exchange will determine an organization overall passing score and individual passing scores for each criterion used in the pilot program. In addition, the Exchange proposes to implement for use in the evaluation program, beginning with the third quarter review period of 1997 (*i.e.*, July 1, 1997 to September 30, 1997), certain programming changes requested by the Commission in its October 1, 1996 order approving the pilot program. Specifically, the Commission requested that the Exchange reprogram its systems so that the following criteria are calculated using the NBBO instead of the primary market quote: Trading Between the Quote, Book Display Time, and Quote Performance (Equal or Better Quote Performance and Better Quote Performance). The description of these performance criteria will be modified as follows:

a. Trading Between the Quote³

"Trading Between the Quote" currently measures the number of market and marketable limit orders that are executed between the best primary market bid and offer. For this criterion

¹ Prior to the adoption of the pilot program, PCX Rule 5.37(a) provided that the Exchange's Equity Allocation Committee ("EAC") evaluate all registered specialists on a quarterly basis and that each specialist receive an overall evaluation rating based on three criteria of specialist performance: (1) Specialist Evaluation Questionnaire Survey ("Questionnaire"); (2) SCOREX Limit Order Acceptance Performance; and (3) National Market System Quote Performance. The pilot program modifies Rule 5.37(a) by adding three new criteria of performance and eliminating one performance criterion. The new criteria are: (1) Executions (itself consisting of four criteria: (a) Turnaround Time; (b) Holding Orders Without Action; (c) Trading Between the Quote; and (d) Executions in Size Greater Than BBO); (2) Book Display Time; and (3) Post-1 p.m. Parameters. The SCOREX Limit Order Acceptance Performance criterion has been eliminated. The pilot also adds more questions to the Questionnaire and expands the National Market System Quote Performance criterion (renamed Quote Performance under the pilot) to include within it a submeasure for bettering the quote. For a more detailed description of the performance criteria utilized in the PCX's pilot program, see Securities Exchange Act Release No. 37770 (October 1, 1996), 61 FR 52820 (October 8, 1996) (File No. SR-PSE-96-28). See generally PCX Rule 5.37 (description of the standards and procedures applicable to the EAC's evaluation of specialists).

² See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (File No. S7-30-95).

³ "Trading Between the Quote" is one of the four criteria which together constitute "Executions" criterion. See *supra* note 1.

³ 17 CFR 200.30-3(a)(12) (1989).

to count toward the overall evaluation score, ten orders or more must have been executed during the quarter in which the specialist is being evaluated. If less than ten orders are executed, this criterion will not be counted and the rest of the evaluation criteria will be given more weight.

When a market or marketable limit order is executed, the execution price is compared to the primary market bid and offer. The specialist will be awarded points based on the percentage of orders the specialist receives that are executed between the primary market bid and offer. If the execution price falls between the primary market bid and offer, the trade is counted as one that traded between the quote at the time of execution. Each time a trade is executed, the primary market quote will be noted. If the spread of that quote is two or more trading fractions apart, that trade will count as one eligible for the comparison of the execution price to the quote.

The Exchange is now proposing to continue using this criterion, but to replace references to the "primary market bid and offer" with references to the "NBBO."

b. Book Display Time

This criterion calculates the percentage of book shares at the best price in the book that is displayed in the specialist's quote, by symbol, and the duration of time that each percentage is in effect. This criterion rates the P/COAST book displayed 100% of the time. The sizes of all open buy limit orders at the best price for the symbol in the specialist's book are totaled and compared to the bid size quote. The sizes of all open sell limit orders at the best price for the symbol in the book are totaled and compared to the offer size quote. This will be done for each symbol traded by the specialist, but only for those orders within the primary market quote. Limit orders in the book that were priced beyond the primary market quote will not be included; they will not be executed until they reach the price in the primary market quote, so the specialist should not be required to cover them in his (her) quote sizes.

The Exchange is now proposing to continue using this criterion, but to replace references to the "primary market bid and offer" to references to the "NBBO."

c. Quote Performance

This criterion, on which 10% of each specialist evaluation is based, consists of two submeasures: (a) Equal or Better Quote Performance; and (b) Better Quote Performance.

Equal or Better Quote Performance calculates for each issue traded, the percentage of time in which a specialist's bid or offer is equal to or better than the primary market quote with a 500 share market size or the primary market size, whichever is less, with a 200 share minimum.

Better Quote Performance calculates for each issue traded, the percentage of time in which a specialist's bid or offer is better than the primary market quote with a 500 share market size or the primary market size, whichever is less, with a 200 share minimum.

The Exchange is proposing to continue using this criterion, but to replace references to the "primary market bid and offer" with references to the "NBBO."

Further, the Commission has requested that the Exchange file a report regarding the Exchange's experience with the pilot.

This report has been filed with the Commission under separate cover. In addition, the Exchange will submit a proposed rule change with the Commission pursuant to Rule 19b-4 under the Act⁴ by November 15, 1997, that will specify an overall passing score for the performance evaluation and individual passing scores for each criterion, as well as a request to further extend the pilot beyond January 1, 1998.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act⁵ in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

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

Written comments on the proposed rule change were neither solicited nor received.

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

Within 35 days of the 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 the 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-PCX-97-19 and should be submitted by July 2, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for 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.

⁴ 17 CFR 240.19b-4.

⁵ 15 U.S.C. 78f(b)(5).