

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40348; File No. SR-PCX-98-36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the OptiMark System—Specialist Bids and Offers

August 20, 1998

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 2, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by PCX. 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 Exchange is proposing to adopt new Rule 15.3(b), which would require Specialists to ensure that their best bids and offers will be represented in the OptiMark System. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

¶6731 Access

Rule 15.2. The PCX Application shall be available for all interested members that decide to become Users. *The Exchange will assure that each PCX Specialist is provided with appropriate access to the PCX Application for the purpose of submitting Profiles from the Specialist's Post.* A non-member User may obtain access to the PCX Application only if such access is authorized in advance by one or more Designated Brokers in accordance with the terms of the applicable Give-Up Agreement and the Transmission Consent Agreement. Both agreements shall be in force before a non-member User may be given the authorization to

obtain access to the PCX Application. At a minimum, the Give-Up Agreement and the Transmission Consent Agreement shall include any applicable credit limits imposed by the Designated Broker on the non-member User; the Designated Broker's undertaking that it is responsible for that non-member User's Orders and resulting transactions; and such other terms and conditions that may be agreed to from time to time. The Exchange shall be provided with a written statement from the Designated Broker acknowledging its responsibility for such Orders and resulting transactions.

¶6732 Entry of Profiles and Generation of Orders

Rule 15.3. Entry of Profiles and General of Orders

(a)—No change.

(b) *Specialist Obligations—Specialists must ensure that at all relevant times during regular trading hours, their best bids and offers (whether reflecting limit orders or the Specialist's own interest) will be included in the OptiMark System as Profiles.*

(c)–(d) [(b)–(c)]—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. PCX 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

Purpose

The Exchange is proposing to adopt new Rule 15.3(b) to require PCX Specialists to use the PCX Application of the OptiMark System ("PCX Application") with respect to the bids and offers that they publish. The purpose of the rule is to facilitate best execution of customer orders by requiring PCX Specialists' best bids and offers to be included in the OptiMark System as Profiles. Once included, such trading interest is expected to interact with other trading interest, resulting in improved execution opportunities on the PCX. The Exchange believes that the rule change will facilitate interaction

between the PCX Application and existing trading interest on the PCX floors, thereby promoting more efficient and effective market operations.

Specifically, proposed Rule 15.3(b) provides that PCX Specialists must ensure that at all relevant times during regular trading hours, their best bids and offers (whether reflecting limit orders or the Specialist's own interest) will be included in the OptiMark System.

The Exchange is also proposing to modify PCX Rule 15.2 by adding the following provision: "The Exchange will assure that each Specialist is provided with appropriate access to the PCX Application for the purpose of submitting Profiles from the Specialist's Post."

Basis

The Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act in that the PCX Application is a facility that is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the Exchange believes that the proposed rule change is consistent with provisions of Section 11A(a)(1)(B) of the Act, which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations.

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 date of 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 PCX consents, the Commission will:

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(A) by order approve such 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, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the 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, 450 Fifth Street NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR-PCX-98-36 and should be submitted by September 17, 1998.

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

Margaret H. McFarland,
Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/ Health Care Financing Administration (HCFA) Match Number 1076)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with HCFA.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on

Government Reform and Oversight of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966-2935 or writing to the Associate Commissioner, Office of Program Support, 4400 West High Rise, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (P.L.) 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records.

It requires Federal agencies involved in computer matching programs to:

- (1) Negotiate written agreements with the other agency or agencies participating in the matching programs;
- (2) Obtain the Data Integrity Boards' approval of the match agreements;
- (3) Furnish detailed reports about matching programs to Congress and OMB;
- (4) Notify applicants and beneficiaries that their records are subject to matching; and
- (5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act.

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: August 17, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

Notice of Computer Matching Program, Health Care Financing Administration (HCFA) with the Social Security Administration (SSA)

A. Participating Agencies

SSA and HCFA.

B. Purpose of the Matching Program

To identify Supplemental Security Income (SSI) recipients who have been admitted to certain public institutions. The program will thereby facilitate benefit reductions required under certain provisions of title XVI of the Social Security Act. The matching program is designed to identify individuals who could be subject to a reduced SSI benefit under statutory provisions mandating a reduced benefit rate in many cases for any month throughout which the eligible individual or his eligible spouse resides in a hospital, extended care facility, nursing home, or intermediate care facility receiving medicaid payments (with respect to such individual or spouse) under a State plan approved under title XIX of the Social Security Act. Under the matching program, SSA will obtain admission data provided to HCFA from skilled nursing facilities as that term is defined in section 1819 of the Social Security Act (42 U.S.C. 1395i-3). HCFA's skilled nursing facility admission data will help SSA enforce the aforementioned SSI benefit reduction provision.

C. Authority for Conducting the Matching Programs

Sections 1611(e)(1)(A) and (B), and 1631(f) of the Social Security Act (42 U.S.C. 1382(e)(1)(A), 1382(e)(1)(B), and 1383(f)); 20 CFR 416.211.

D. Categories of Records and Individuals Covered by the Matching Program

On the basis of certain identifying information regarding SSI applicants and recipients as provided by SSA to HCFA, HCFA will provide SSA with electronic files containing skilled nursing facility admission and billing data from its Long Term Care—Minimum Data Set LTC/MDS 09-70-1516 system of records. SSA will then match the HCFA data with SSI payment information maintained in the Supplemental Security Income Record, SSA/OSR 09-60-0103 system of records.

³ 17 CFR 200.30-3(a)(12).