

Holders and Sponsored Participants (collectively "Users") with additional information with which to make trading decisions during Market Order Auctions and Trading Halt Auctions.

Accordingly, this enhancement should facilitate improved order interaction and foster price competition. The Commission believes that the proposed rule change will provide a more transparent and efficient market operation, and will enhance the information available to investors.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that the proposed rule change will enhance the information available to ArcaEx Users to assist them in making investment decisions during the Opening Session and prior to the re-opening of trading in a security following a trading halt. The Commission further notes that PCX has represented that ArcaEx has already developed the capability to publish the new Total Imbalance indicator.¹¹

IV. Order Granting Accelerated Approval

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. Moreover, the Commission finds that there is good cause to grant accelerated approval to the proposed rule change, as amended.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change, as amended (SR-PCX-2003-48), is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48768; File No. SR-PCX-2003-54]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. to Amend PCXE Rule 7.37(d) Relating to Routing Orders Away

November 10, 2003.

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 September 25, 2003, the Pacific Exchange, Inc. ("PCX" or "Exchange"), through its wholly owned subsidiary PCX Equities, Inc. ("PCXE"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which the PCX has prepared. 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 proposes to amend PCXE Rule 7.37(d) relating to the routing of orders to away market centers or market participants. The text of the proposed rule change appears below. New text is in *italics*. Deleted text is in *brackets*.

PCX Equities, Inc.

Rule 7

Equities Trading

Order Execution

* * * * *

Rule 7.37. (a)-(c) No change.

(d) Step 5: Routing Away.

(1)-(2)—No change.

(A)(i) The order shall be routed, either in its entirety or as component orders, to another market center or market participant as a limit order *equal to the price and no greater than the size* [priced at] of the quote published by the market center or market participant. *The remaining portion of the order, if any, shall be ranked and displayed in the Arca Book in accordance with the terms of such order under Rule 7.36 and such order shall be eligible for execution under Rule 7.37.*

(ii)—No change.

(B) *The order that is routed away shall remain outside the Archipelago*

Exchange for a prescribed period of time and may be executed in whole or in part subject to the applicable trading rules of the relevant market center or market participant. [Archipelago Exchange shall attempt to match the part of the order that has not been routed away against then available trading interest in the Archipelago Exchange for an internal fill by following Steps 1 through 4 as set forth in paragraphs (a) through (c) above.]

(i) *While an order remains outside the Archipelago Exchange, it shall have no time standing, relative to other orders received from Users at the same price which may be executed against the Arca Book.*

(ii) *Requests from Users to cancel their orders while the order is routed away to another market center or market participant and remains outside the Archipelago Exchange shall be processed, subject to the applicable trading rules of the relevant market center or market participant.*

(C) [Orders routed to other market centers or market participants shall remain outside the Archipelago Exchange for a prescribed time period during which they may be executed (in whole or in part) or declined. While an order remains outside the Archipelago Exchange, it shall have no time standing, relative to other orders received from Users at the same price which may be executed against the Arca Book. Requests from Users to cancel their orders while the order is routed away to another market center or market participant and remains outside the Archipelago Exchange shall be processed, subject to the applicable trading rules of the relevant market center or market participant.]

[(D)] *Where an [In the event that a marketable] order or portion of an order is routed away [from the Archipelago Exchange to another market center or market participant] and is not executed either in whole or in part [in its entirety] at the other market center or market participant[']s quote [i.e., all attempts at the fill are declined or timed-out], the order shall be ranked and displayed in the Arca Book in accordance with the terms of such order under Rule 7.36 and such order shall be eligible for execution under Rule 7.37.* [the Archipelago Exchange shall attempt to match the residual or declined market order against then available trading interest in the Archipelago Exchange for an internal fill by following Steps 1 through 4 as set forth in paragraphs (a) through (c) above. Any remaining unmatched trading interest shall be re-routed to another market center or market participant at the next available

¹¹ Telephone conversation between Peter Bloom, Regulatory Policy, PCX and Tim Fox, Attorney, Commission on October 30, 2003.

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

displayed price level pursuant to this paragraph (d)(2) above.]

[(E) When routing an order in an Eligible Security away to another market center, the Corporation shall utilize such electronic intermarket linkages and order delivery facilities as may be approved by the Board of Directors from time to time, subject to such applicable requirements as may be agreed to with the relevant market center.]

[(e) If an order has not been executed in its entirety after following Steps 1–5, the order shall be ranked in the Arca Book pursuant to Rule 7.36.]

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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 PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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, Proposed Rule Change

(1) Purpose

To clarify language with respect to order execution on the Archipelago Exchange ("ArcaEx") facility, the PCX proposes to modify PCXE Rule 7.37(d) relating to the routing of orders to away market centers or market participants.³ This modification does not seek to change ArcaEx's current functionality, but rather to clarify its existing functionality.

Currently, PCXE Rule 7.37(d) describes the process for orders that are routed outside the Archipelago Exchange. The rule states that orders will be routed to the extent they have not been executed in their entirety subject to PCXE Rules 7.37(a) through (c) and are not designated as a certain order type.⁴ The proposed rule change

³ The fifth step of the ArcaEx execution algorithm involves routing orders away to other market centers or market participants. This will occur if there are no opportunities to match an order within ArcaEx, or to access the best price available in the market. Routing is available only to those ETP Holders who have entered into a Routing Agreement. See PCXE Rule 7.37(d).

⁴ PCXE Rule 7.37(d) states that orders designated as Fill-or-Return, Fill-or-Return Plus, or Post No Preference ("PNP") will be canceled without being routed to another market participant.

would clarify the size and price of the routed order. Specifically, the proposed rule change designates that orders would be routed at the price and at a size no greater than the size of the quote published at the away market center or market participant. Furthermore, the proposed rule change would clarify that in the case where the order is (i) greater than the away market center's quote size, or (ii) is unexecuted or canceled by the away market center, the remaining portion of the order will be displayed in the ArcaEx Book pursuant to PCXE Rule 7.36 and eligible for execution under PCXE Rule 7.37.

(2) Statutory Basis

The PCX believes that this proposal is consistent with Section 6(b)⁵ of the Act, in general, and furthers the objectives of Section 6(b)(5)⁶, 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, to remove impediments and perfect the mechanisms of a free and open market, and to protect investors and the public interest.

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

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

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 the PCX consents, the Commission will:

A. by order approve such proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

IV. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. 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 filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-PCX–2003–54 and should be submitted by December 10, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3556]

State of Texas

Hidalgo County and the contiguous counties of Brooks, Cameron, Kenedy, Starr and Willacy in the State of Texas constitute a disaster area due to excessive rain and flooding that occurred September 18 through October 20, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 12, 2004 and for economic injury until the close of business on August 12, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Road, Fort Worth, TX 76155–2243.

The interest rates are:

	Percent
For Physical Damage:	

⁷ 17 CFR 200.30–3(a)(12).