

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49140; File No. SR-PCX-2003-72]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Exchange Fees and Charges

January 28, 2004.

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> notice is hereby given that on January 2, 2004, 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 the PCX has prepared. The PCX has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the rule effective upon Commission receipt of this filing. 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 the Trade-Related Charges portion of its Schedule of Fees and Charges ("Schedule") in order to delete the fee relating to its Volume Discount Program.

The text of the proposed rule change is below. Proposed deletions are in [brackets].

\* \* \* \* \*

### Schedule of Fees and Charges for Exchange Services

#### PCX Options: Trade-Related Charges Transactions

Customer	\$0.00 per contract side
Firm	\$0.10 per contract side for customer facilitation
Broker/Dealer	\$0.21 per contract side

Market share tiers	Marg rate	Market share tiers	Marg rate
0.00% to 11.00% .....	\$0.21	0% to 15% .....	\$0.21
11.00% to 20.00% .....	0.11	15% to 25% .....	0.15
20% to 100.00% .....		25% to 100% .....	0.05

#### Market Maker Marginal Transaction Rates on Top 120 Issues

Market Maker Marginal Transaction Rates on Non-Top 120 Issues. Singly listed issues will be assessed a flat \$0.21 Market Maker transaction charge.

#### [VOLUME DISCOUNT PROGRAM

PCX Quarterly Average Daily Contract Volume

Per Contract Reduction in Market Maker Transaction Charge For Following Quarter

449,000 or lower .....	No reduction
450,000 to 474,999 .....	\$0.01
475,000 to 499,999 .....	\$0.02
500,000 to 524,999 .....	\$0.03
525,000 or higher .....	\$0.04]

\* \* \* \* \*

### 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 Exchange 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 Exchange 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

The Exchange is proposing to amend the Trade-Related Charges portion of its Schedule in order to delete the fee relating to its Volume Discount Program. On December 16, 2003, the Exchange submitted a filing with the Commission to implement the new Incentive Pricing Program for Market Maker transaction charges.<sup>5</sup> As part of its ongoing effort to secure existing volumes and attract higher levels of liquidity, the PCX proposed a three-tiered rate schedule that would lower transaction charges for Market Makers (including Lead Market Makers) as the

Exchange attains higher levels of market share on individual issues. The Incentive Pricing Program became effective upon filing. As a result of the application of the new Incentive Pricing Program, the Exchange no longer has need for the Volume Discount Program and proposes to eliminate it from the Schedule.

##### 2. Statutory Basis

The Exchange believes that this proposal to amend its schedule of dues, fees and charges would be an equitable allocation of reasonable fees among PCX members, and that the proposal is consistent with Section 6(b) of the Act<sup>6</sup> and furthers the objectives of Section 6(b)(4) of the Act.<sup>7</sup>

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

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

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

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

<sup>5</sup> See Securities Exchange Act Release No. 48976 (December 23, 2003), 68 F.R. 75701 (December 31, 2003) (SR-PCX-2003-68).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

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

PCX does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

PCX neither solicited nor received written comments on this proposal.

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and Rule 19b-4(f)(2)<sup>9</sup> thereunder. Accordingly, the proposal has taken effect upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the 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.

**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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-PCX-2003-72. 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, comments should be sent in hard copy or by e-mail, but not by both methods. 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 PCX. All submissions should refer to File No. SR-PCX-2003-72 and should be submitted by February 26, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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**SOCIAL SECURITY ADMINISTRATION**

**Supplemental Security Income (SSI) Demonstration: Work Incentives for Participants in the Florida Freedom Initiative**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice.

**SUMMARY:** The Commissioner of Social Security (the Commissioner) will exercise her authority under section 1110(b) of the Social Security Act to conduct a demonstration and is publishing this notice in accordance with regulations at 20 CFR 416.250(e).

The demonstration, called Work Incentives for Participants in the Florida Freedom Initiative, will test whether the modification of certain SSI program rules fosters greater self-sufficiency among SSI beneficiaries participating in the Florida Freedom Initiative. The Florida Freedom Initiative is a demonstration being undertaken by the Florida Department of Children and Families through a Systems Change grant from the Department of Health and Human Services (DHHS), Centers for Medicare & Medicaid Services (CMS).

**EFFECTIVE DATES:** It is anticipated that the Florida Freedom Initiative will begin no later than March 1, 2004. According to the demonstration plan, beneficiaries may participate throughout the period of the demonstration for up to three years. Thus, the anticipated ending date for participation will be no later than February 28, 2007. In some cases, however, the modified SSI program rules that the Commissioner is creating relative to individual development accounts and plans for achieving self-support (see below) may continue to apply for a limited time after an individual's participation in the Florida Freedom Initiative ends.

**FOR FURTHER INFORMATION CONTACT:** Stephen Fear by e-mail at

[steve.fear@ssa.gov](mailto:steve.fear@ssa.gov), by telephone at (410) 966-0265, or by mail at Social Security Administration, Office of Program Development and Research, 3516 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235.

**SUPPLEMENTARY INFORMATION:**

**Florida Freedom Initiative and Consumer Directed Care Plus Demonstrations**

The Florida Freedom Initiative will attempt to build on the success of an ongoing "Cash and Counseling" demonstration, Consumer Directed Care Plus, that the State has been conducting with partners that include: CMS, the Office of the Assistant Secretary for Planning and Evaluation at DHHS, the National Program Office at the University of Maryland Center on Aging, the Robert Wood Johnson Foundation, the National Council on Aging, and Mathematica Policy Research (as the evaluator).

For Consumer Directed Care Plus, the Secretary of DHHS (the Secretary) exercised his authority under section 1115 of the Act to waive certain Medicaid program rules. The Medicaid waivers permit Medicaid beneficiaries using personal-attendant, supported-employment, or certain other services, to receive a cash allowance in lieu of those services, along with information support that enables them to select and purchase the specific services they need from providers of their choosing.

The Commissioner, to enable SSI beneficiaries to participate in the Consumer Directed Care Plus demonstration and to test the effect of modified SSI program rules in the demonstration's Medicaid-waiver environment, waived SSI rules regarding how long an individual can retain certain cash received for medical and social services before they count toward the SSI resources limit. The Commissioner also waived SSI rules that would require interest earned on such retained funds to count as income. See 63 FR 58802 (November 2, 1998).

For the Florida Freedom Initiative, the Secretary will expand the types of services for which Medicaid beneficiaries can receive a cash allowance. The demonstration also will incorporate, to a greater extent than was possible in Consumer Directed Care Plus, the principles of self-determination, one of which emphasizes the generation of personal income through work, often through the development of a microenterprise. To aid in the removal of systemic barriers to work that were identified in the course of the Consumer Directed Care Plus demonstration, the Commissioner

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).