

business days prior to the date of filing the proposed rule change, or such shorter time as designated by the Commission.⁷ Consequently, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii), the proposed rule change does not become operative for 30 days from the date of filing.

At any time within 60 days of the filing of such proposed rule change, 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.⁸

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, including whether the proposed rule change 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. Please include File No. SR-PCX-2005-22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-0609. All submissions should refer to File No. SR-PCX-2005-22. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all electronic comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filings will also be

available for inspection and copying at the principal office of the PCX and will be available on the PCX's Internet Web site (<http://www.pacificex.com>). 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 No. SR-PCX-2005-22 and should be submitted on or before July 5, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51799; File No. SR-PCX-2005-27]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Exchange's Calculation of the National Best Bid or Offer When Another Market Is Disconnected From the Intermarket Option Linkage

June 7, 2005.

On March 31, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to amend its rule regarding the PCX's calculation of the National Best Bid or Offer ("NBBO") when another market is disconnected from the Linkage.³ On April 19, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The proposed rule change, as amended, was published for comment in the **Federal Register** on May 4, 2005.⁵ The

Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁶ and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, 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 it is appropriate for PCX to remove a market's disseminated quote from PCX's calculation of the NBBO when a market is disconnected from Linkage because access to that market's quote is limited during such times. The Commission further believes that the proposed rule establishes an appropriate procedure to notify PCX OTP Holders⁹ and OTP Firms¹⁰ of such removal and establishes an appropriate standard for when to resume inclusion of the affected market's quote in PCX's calculation of the NBBO. The Commission also believes that it is consistent with the Act for PCX to move its current provisions for declaring an away market unreliable from PCX Rule 6.87(h)(4) to proposed PCX Rule 6.94(e) because eliminating certain markets' disseminated quotes from PCX's calculation of the NBBO removes such quotes from the applicability of other provisions of PCX Rule 6.94 that relate to the rights and obligations of PCX OTP Holders and OTP Firms in the event of a Trade-Through.¹¹

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-PCX-2005-27) as amended, is approved.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term "Linkage" means the systems and data communications network that link electronically the options markets to one another for the purpose of sending and receiving Linkage Orders, related confirmations, order statuses and Administrative Messages. See Section 2(14) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan").

⁴ See Form 19b-4 dated April 19, 2005 ("Amendment No. 1"). Amendment No. 1 replaced and superseded the original filing in its entirety.

⁵ See Securities Exchange Act Release No. 51627 (April 28, 2005), 70 FR 23290.

⁶ 15 U.S.C. 78f.

⁷ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See Exchange Rule 1.1(q).

¹⁰ See Exchange Rule 1.1(r).

¹¹ A "Trade-Through" is a transaction in an options series at a price that is inferior to the NBBO. See Section 2(29) of the Linkage Plan.

¹² 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 240.19b-4(f)(6)(iii).

⁸ 15 U.S.C. 78s(b)(3)(C).

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

Margaret H. McFarland,
Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; as Amended; New System of Records and New Routine Use Disclosures

AGENCY: Social Security Administration (SSA).

ACTION: Proposed new system of records and proposed routine uses.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)), we are issuing public notice of our intent to establish a new system of records entitled, the *National Docketing Management Information System* (NDMIS) and routine uses applicable to this system of records. Hereinafter, we will refer to the proposed system of records as the *NDMIS*. We invite public comments on this proposal.

DATES: We filed a report of the proposed new system of records and proposed routine use disclosures with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Government Reform, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on June 2, 2005. The proposed system of records and routine uses will become effective on July 12, 2005, unless we receive comments warranting it not to become effective.

ADDRESSES: Interested individuals may comment on this publication by writing to the Executive Director, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3-A-6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Joyce Schaul, Social Insurance Specialist, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3-A-6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, e-mail address at joyce.schaul@ssa.gov, or by telephone at (410) 965-5662.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Proposed New System of Records Entitled the *NDMIS*

A. General Background

The Office of the General Counsel (OGC) in SSA is responsible for the Agency's litigation workloads. In order to handle these workloads, OGC has to efficiently and effectively control, track, and maintain information about these workloads as they develop. For example, SSA receives communications from individuals and/or their representatives about legal matters that may result or have resulted in litigation. Information about such matters is maintained in the *NDMIS* to aid OGC's offices in SSA headquarters in Baltimore, and its 10 regional offices, to process these workloads. The system maintains and tracks records during all phases of processing each matter through its resolution.

B. Collection and Maintenance of the Data for the Proposed New System of Records Entitled the *NDMIS*

SSA must collect and maintain identifying information about individuals and/or their representatives; about individuals who are in communication with SSA regarding legal matters; about individuals against whom SSA may pursue or has pursued legal action; and about Government representatives who work on these matters. We will retrieve information from the proposed system of records by using certain identifiers, including the individual's name, Social Security number (SSN) and/or Employer Identification number. Thus, the *NDMIS* system will constitute a system of records under the Privacy Act of 1974, as amended.

II. Proposed Routine Use Disclosures of Data Maintained in the Proposed *NDMIS*

A. Proposed Routine Use Disclosures

We are proposing to establish routine uses of information that will be maintained in the proposed *NDMIS* as discussed below.

1. *To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.*

We will disclose information under this routine use only in situations in which an individual may contact the Office of the President, seeking that Office's assistance in a matter relating to information contained in this system of records. Information will be disclosed when the Office of the President makes

an inquiry and indicates that it is acting on behalf of the individual whose record is requested.

2. *To a congressional office in response to an inquiry from that office made at the request of the subject of a record.*

We will disclose information under this routine use only in situations in which an individual may ask his or her congressional representative to intercede in a matter relating to information contained in this system of records. Information will be disclosed when the congressional representative makes an inquiry and indicates that he or she is acting on behalf of the individual whose record is requested.

3. *To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:*

(a) *SSA, or any component thereof; or*
(b) *any SSA employee in his/her official capacity; or*

(c) *any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or*

(d) *the United States or any agency thereof where SSA determines that the litigation is likely to affect the operation of SSA or any of its components,*

is party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Disclosure of any information defined as "return or return information" under 26 U.S.C. 6103 of the Internal Revenue Code (IRC) will not be made unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

We will disclose information under this routine use only as necessary to enable DOJ to effectively defend SSA, its components or employees in litigation involving the proposed new system of records and ensure that courts and other tribunals have appropriate information.

4. *To student volunteers, individuals working under a personal service contract, and other individuals performing functions for SSA, but technically not having the status of Agency employees, if they need access to the records in order to perform their assigned Agency functions.*

Under certain Federal statutes, SSA is authorized to use the service of volunteers and participants in certain educational, training, employment and

¹³ 17 CFR 200.30-3(a)(12).