to a fee that would be a pass through of the costs that the Exchange pays the NASD for conducting DOEA examinations, plus a 17% administrative charge.[6] In the previous proposed rule change, the Exchange represented that the 17% percent administration fee that it proposed to charge relates directly to costs actually incurred by the Exchange in the administration of this program. The Exchange now proposes to extend this relief retroactively back to all applicable fees due since January 2004.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[7] in general, and section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable fees among its members.

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 were neither solicited nor received with respect to 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 other 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 Exchange 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, 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*);
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2004–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2004–51. 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, please use only one method. The Commission will post all 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 Section, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. 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 Number SR–PCX–2004–51 and should be submitted on or before July 9, 2004.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13844 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* note 3 *supra.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49835; File No. SR–PCX–2004–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Pacific Exchange, Inc. Relating to Preventing Locks and Crosses in PNP Orders for ITS Trade-Through Exempt Securities by Amending PCXE Rule 7.31

June 8, 2004.

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 June 3, 2004, 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 Items have been prepared by the Exchange. The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 amend PCXE Rule 7.31 ("Orders and Modifiers"), which governs the Archipelago Exchange ("ArcaEx"), an equities trading facility of PCXE, by modifying the behavior of PNP Orders for ITS Trade-Through Exempt Securities[5] to systematically prevent such orders from locking and crossing the National Best Bid or Offer ("NBBO"). The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

* * * * *

Rule 7

Equities Trading

Trading Sessions

Rule 7.31(a)–(v)—No change.

(w) PNP Order (Post No Preference). A limit order to buy or sell that is to be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 204.19b–4(f)(6).

[5] *See* PCXE Rule 7.37 for the definition of "ITS Trade-Through Exempt Securities."

executed in whole or in part on the Corporation, and the portion not so executed is to be ranked in the Arca Book, without routing any portion of the order to another market center; provided, however, the Corporation shall cancel a PNP Order that would lock or cross the NBBO *except as provided in Rule 7.31(w)(1). The NBBO price protection provision set forth in Rule 7.37 will not apply to PNP Orders in Nasdaq securities.*

(1) PNP Orders for ITS Trade-Through Exempt Securities (as defined in Rule 7.37). PNP Orders for *ITS* Trade-Through Exempt Securities [(as defined in Rule 7.37)] will not be canceled at the time of order entry if such orders would lock or cross the NBBO. *Such orders will be ranked in the Arca Book in price, time priority with an undisplayed price and size until: (i) Such orders are executed; or (ii) such orders no longer lock or cross the NBBO at which time they would be displayed in the Arca Book and ranked based upon original price and the original order entry time. The lock and cross restrictions set forth in this rule will only apply to bids or offers included in the NBBO that are for greater than 100 shares pursuant to Rule 7.56(d)(2)(E).* PNP Orders in ITS Trade-Through Exempt Securities may be executed at a price no more than three cents ($0.03) away from the NBBO [displayed in the Consolidated Quote]. *All PNP Orders whether displayed or undisplayed will execute in price, time priority.* [The NBBO price protection provision set forth in Rule 7.37 will not apply to PNP Orders in Nasdaq securities.]

(x)–(cc)—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, 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

Currently, PCXE Rule 7.31(w) establishes that PNP Orders for ITS Trade-Through Exempt Securities will not be canceled at the time of order entry if the PNP Order would lock or cross the NBBO. The Exchange seeks to modify the rule to provide that PNP Orders in ITS Trade-Through Exempt Securities will not be displayed in the instance when the order will lock or cross the NBBO. In such cases, the PNP Orders would remain in the Arca Book ranked in price, time priority but will not be displayed until the order: (i) is executed; or (ii) no longer locks or crosses the NBBO at which time they would be displayed in the Arca Book and ranked based upon the original price and the original order entry time.

Pursuant to PCXE Rule 7.56(d)(2)(E), the lock/cross restrictions do not apply to 100 share markets. Thus, this proposed rule change regarding the display of PNP Orders in ITS Trade-Through Exempt Securities will apply only to bids and offers of more than 100 shares. Therefore, if the PNP Order would lock or cross a bid or offer of 100 shares, the Exchange would display the PNP Order in the Arca Book in price, time priority.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) [6] of the Act, in general, and further the objectives of section 6(b)(5),[7] 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 to and perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with provisions of section 11A(a)(1)(B) [8] 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 were neither solicited nor received with respect to the proposed rule change.

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

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the proposed 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.

The Exchange has requested that the Commission waive the 30-day operative period to implement the proposed rule change as soon as the technical changes are completed. The Commission believes that waiving the 30-day operative period is consistent with the protection of investors and the public interest because it will allow the PCX to immediately provide a mechanism to prevent Locks and Crosses in trading certain ITS securities, consistent with the ITS Plan.[11]

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. Comments may be submitted by any of the following methods:

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1(a)(1)(B).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes of waiving the operative period date of this proposal only, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*);

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2004–52 on the subject line.

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2004–52. 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, please use only one method. The Commission will post all 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 Room. Copies of the filing also will be available for inspection and copying at the principal office of the PCX. 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 Number SR–PCX–2004–52 and should be submitted on or before July 9, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–13845 Filed 6–17–04; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3589]

State of Arkansas

Ouachita County and the contiguous counties of Calhoun, Clark, Columbia, Dallas, Nevada, and Union in the State of Arkansas constitute a disaster area due to damages caused by severe storms and flooding that occurred on May 30, 2004. Applications for loans for physical damage may be filed until the close of business on August 13, 2004, and for economic injury until the close of business on March 14, 2005, 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.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.750
Homeowners without credit available elsewhere	2.875
Businesses with credit available elsewhere	5.500
Businesses and non-profit organizations without credit available elsewhere	2.750
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.750

The number assigned to this disaster for physical damage is 358906 and for economic damage is 9ZI100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 14, 2004.

Hector V. Barreto,

Administrator.

[FR Doc. 04–13779 Filed 6–17–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3585]

State of Indiana (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective June 11, 2004, the above numbered declaration is hereby amended to include Benton, Boone, Carroll, Cass, Clinton, Dubois, Floyd, Fountain, Fulton, Gibson, Grant, Hamilton, Hancock, Harrison, Hendricks, Howard, Jackson, Jefferson, Johnson, Lawrence, Martin, Montgomery, Morgan, Orange, Perry, Pike, Scott, Shelby, Spencer, Tippecanoe, Vanderburgh, Wabash, Warren, Warrick and White Counties as disaster areas due to damages caused by severe storms, tornadoes, and flooding occurring on May 27, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Bartholomew, Blackford, Brown, Daviess, Decatur, Delaware, Greene, Henry, Huntington, Jasper, Jennings, Knox, Kosciusko, Madison, Marshall, Monroe, Newton, Owen, Parke, Posey, Pulaski, Putnam, Ripley, Rush, Starke, Switzerland, Tipton, Vermillion, Wells and Whitley in the State of Indiana; Iroquois, Vermilion, Wabash, and White Counties in the State of Illinois; and Breckinridge, Carroll, Daviess, Hancock, Hardin, and Henderson Counties in the Commonwealth of Kentucky may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

The number assigned to this disaster for economic injury is 9ZJ200 for Illinois.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 2, 2004, and for economic injury the deadline is March 3, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 14, 2004.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–13781 Filed 6–17–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3590]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on June 10, 2004, I find that Bell, Bourbon, Boyle, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Carroll, Casey, Christian, Clark, Clay, Crittenden, Edmonson, Elliott, Estill, Fayette, Floyd, Franklin, Garrard, Grayson, Hardin, Harlan, Hart, Henderson, Henry, Hopkins, Jefferson, Jessamine, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Madison, Magoffin, Martin, McLean, Menifee, Montgomery, Morgan, Muhlenberg, Ohio, Oldham, Owen, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Scott, Shelby, Spencer, Trimble, Union, Webster, Whitley, Wolfe, and Woodford Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms, tornadoes, flooding, and mudslides, and

[12] 17 CFR 200.30–3(a)(12).