

Once autoquote resumes, the bid will automatically change to 20.21 for 1,000 shares, the limit price and the size of the residual. The offer remains 20.22 for 1,500 shares.

#### 26. Gap Quote.

The quotation is 20.08 bid, offered at 20.09, 10,000 × 5,000, last sale at 20.08. Crowd interest arrives to buy 350,000 shares at the market. The specialist executes 5,000 shares at the offer, 20.09, then gaps the quote, making the bid price “touch” the last sale price (20.09), showing the size of the imbalance in that bid (345,000 shares). On the contra side, the specialist makes the offer the price where stock may trade if no other sell interest arrives, and the size as 100 shares, to draw in sellers. Thus, *e.g.*, the gap quote<sup>48</sup> is 20.09 bid, offered at 20.30, 345,000 × 100. Automatic executions and autoquote are suspended, but incoming orders and cancellations are reflected electronically on the book. Crowd, specialist interest and other liquidity providers are taken into account in determining the price and size of the next transaction. Automatic executions and autoquote then resume.

#### 27. Tick-restricted Orders.

(a) The quotation is 20.05 bid, offered at 20.07, 1,500 × 1,000. Other orders on the book to sell include 1,000 at 20.09 (sell short), and 1,000 at 20.11 (sell plus). An NX market order to buy 2,500 shares arrives. 1,000 shares of the buy order are automatically executed against the 1,000 shares offered at 20.07. The remaining 1,500 shares to buy sweep up to 20.11. The sell short and sell plus orders are executable as the sweep occurs on a direct plus tick. As a result, the 20.09 sell short offer on the book is price improved to 20.11.

(b) The quotation is 20.05 bid, offered at 20.07, 1,500 × 1,000. Also on the book to buy are 1,000 shares (buy minus) at 20.04, 1,000 shares to buy at 20.03 and 1,500 shares to buy at 20.01. An NX order to sell 3,000 shares arrives, automatically executing 1,500 shares against the bid at 20.05, sweeping down to 20.03. The 1,000 share bid at 20.04 was executable as the sweep occurred on a minus tick.

(c) The quotation is 20.05 bid, offered at 20.07, 1,500 × 1,000. Also on the book to buy are 1,000 shares at 20.04, 1,000 shares to buy at 20.03, and 1,500 shares to buy at 20.01. The last sale is at 20.04. An NX order to sell short 3,000 shares arrives. The security in question is not part of the Regulation SHO pilot.<sup>49</sup> 1,500 shares automatically execute at 20.05. The residual, 1,500, cannot sweep the

book because that would violate short sale rules. The market is autoquoted 20.04 bid, the next best bid on the book, offered at 20.05, the price at which the sell short order can trade, 1,000 × 1,500.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50668; File No. SR-PCX-2004-90]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Extend the Applicability of the Cross-and-Post Functionality on the Archipelago Exchange Facility to PNP Cross Orders

November 16, 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 November 3, 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 items have been prepared by the PCX. On November 10, 2004, the PCX filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Exchange proposed the rule change under Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders it effective upon filing.<sup>6</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The PCX, through its wholly owned subsidiary PCX Equities, Inc. (“PCXE”), proposes to amend its rules relating to the Cross and Post Order to make clear that this order type applies to PNP Cross Orders.

The text of the proposed rule change, as amended, is below. Proposed new

language is in *italics*; proposed deletions are in brackets.

\* \* \* \* \*

#### Rule 7 Equities Trading

##### Rule 7.31 Orders and Modifiers

(a)-(r)—No change.

(s)(1)-(2)—No change.

(3) *Following the execution parameters described above, any unexecuted portion of a Cross Order shall be cancelled, unless the Cross Order has been designated as a Cross and Post, as defined in Rule 7.31(ff), in which case any unexecuted portion will be displayed in Arca Book at the cross price.*

(t)-(aa)—No change.

(bb) PNP (Post No Preference) Cross Order. A Cross Order that is to be executed in whole or in part on the Corporation and the portion not so executed is to be canceled, without routing any portion of the Cross Order to another market center. When the cross price is equal to or better than the NBBO and is at the BBO, the relevant portion of the PNP Cross Order will be matched first against displayed orders with priority in the Arca Book, and then the remainder of the PNP Cross Order will be matched. Any unexecuted portion of the PNP Cross will be canceled, *unless the PNP Cross Order has been designated as a Cross and Post, as defined in Rule 7.31(ff), in which case any unexecuted portion will be displayed in Arca Book at the cross price.* The Corporation will cancel either the entire PNP Cross Order at the time of order entry, or the unexecuted portion of a PNP Cross Order (*whether or not it has been designated as a Cross and Post*) at any time during the order execution process, whichever is applicable, if:

(1) The cross price would cause an execution at a price that trades through the NBBO, except as provided in Rule 7.37;

(2) The cross price is between the BBO and does not improve the BBO by the MPII pursuant to Rule 7.6(a), Commentary .06.

(cc)-(ee)—No Change.

(ff) Cross-and-Post Order. A Cross Order or PNP Cross Order that is to be executed in whole or in part on the Corporation [pursuant to Rule 7.31(s)] where any unexecuted portion of the Cross-and-Post Order will be displayed in the Arca Book at the cross price.

(1)-(2)—No Change.

\* \* \* \* \*

<sup>48</sup> See Securities Exchange Act Release No. 50237 (August 24, 2004), 69 FR 51213 (August 31, 2004) (SR-NYSE-2004-37) (Information Memo 04-27—June 9, 2004). The gapped quote procedures provide that a gapped quotation should remain in place for a reasonable time to allow for interested parties to respond to the order imbalance. What constitutes a reasonable time is determined by the unique circumstances of each gapped quotation situation. However, the gapped quotation generally should last at least 30 seconds unless offsetting interest is received earlier, and generally should not exceed two minutes, unless circumstances require otherwise. The duration of a gapped quote is determined with input from a Floor Official.

<sup>49</sup> See note 13, *supra*.

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

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

<sup>3</sup> Amendment No. 1 replaced and superseded the original filing in its entirety.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> For purpose of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on November 10, 2004, the date that the PCX filed Amendment No. 1.

## 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

As part of its continuing efforts to enhance participation on the Archipelago Exchange ("ArcaEx") facility, the PCX is proposing to amend PCXE Rule 7.31(ff) to clarify that the Cross-and-Post Order type may be applied to the PNP (Post No Preference) Cross Order type.<sup>7</sup>

Currently, PCXE Rule 7.31(ff) states that the Cross-and-Post Order functionality is limited to Cross Orders defined in PCXE Rule 7.31(s).<sup>8</sup> PCXE Rule 7.31(s) defines the basic ArcaEx Cross Order. Because the ArcaEx rulebook now includes cross order types defined in other paragraphs of PCXE Rule 7.31, the Exchange proposes to clarify PCXE Rule 7.31(ff) so that the Cross-and-Post functionality will be understood to be available for PNP Cross Orders. Accordingly, the Exchange proposes to delete the reference to PCXE Rule 7.31(s) in the current PCXE Rule 7.31(ff) text. In addition, minor changes are proposed for PCXE Rule 7.31(s) to make clear that any unexecuted portion of a basic Cross Order is cancelled.

Further, the Exchange proposes to amend PCXE Rule 7.31(bb), which defines the PNP Cross Order, and PCXE Rule 7.31(ff) to clarify that the Cross and Post functionality will be available for PNP Cross Orders. Currently, the unexecuted portion of any PNP Cross Order cancels as described in PCXE Rule 7.31(bb). The proposed rule change specifies that when Cross and Post functionality is applied to a PNP Cross

Order, any unexecuted portion of the PNP Cross will post to the Arca Book if certain pricing conditions provided in the existing rule are met.<sup>9</sup> The Exchange believes that implementing these changes will provide investors and ETP Holders<sup>10</sup> with greater opportunities for executing orders with the Cross-and-Post functionality.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

### 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

PCX has designated that the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup> The Exchange has stated that the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of

investors and the public interest.<sup>15</sup> Therefore, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.<sup>18</sup>

## 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>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-PCX-2004-90 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 No. SR-PCX-2004-90. 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

<sup>15</sup> Rule 19b-4(f)(6)(iii) under the Act also requires that a self-regulatory organization provide the Commission with written notice of its intent to file a proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing the proposed rule change. The Exchange complied with this requirement.

<sup>16</sup> See *supra* note 4.

<sup>17</sup> See *supra* note 5.

<sup>18</sup> See *supra* note 6.

<sup>7</sup> See PCXE Rule 7.31(bb).

<sup>8</sup> The relevant portion of PCXE Rule 7.31(ff) reads: "A Cross Order that is to be executed in whole or in part on the Corporation pursuant to Rule 7.31(s) where any unexecuted portion of the Cross-and-Post Order will be displayed in the Arca Book at the cross price."

<sup>9</sup> See *supra* note 7.

<sup>10</sup> See PCXE Rule 1.1 (n).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See *supra* note 4.

<sup>14</sup> See *supra* note 5.

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 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 No. SR-PCX-2004-90 and should be submitted on or before December 13, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-3269 Filed 11-19-04; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3624, Amendment #3]

#### State of Alabama

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective November 5, 2004, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to January 3, 2005.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 15, 2005.

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

Dated: November 10, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-25875 Filed 11-19-04; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3651]

#### State of North Carolina

Moore County and the contiguous counties of Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Randolph, Richmond, and Scotland in the State of North Carolina constitute a

disaster area as a result of damages caused by flooding and tornadoes created by remnants of Hurricane Jeanne that occurred on September 20, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 11, 2005, and for economic injury until the close of business on August 10, 2005, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

|                                                                                         | Percent |
|-----------------------------------------------------------------------------------------|---------|
| For Physical Damage:                                                                    |         |
| Homeowners With Credit Available Elsewhere .....                                        | 6.375   |
| Homeowners Without Credit Available Elsewhere .....                                     | 3.187   |
| Businesses With Credit Available Elsewhere .....                                        | 5.800   |
| Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....        | 2.900   |
| Others (Including Non-Profit Organizations) With Credit Available Elsewhere .....       | 4.875   |
| For Economic Injury:                                                                    |         |
| Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere ..... | 2.900   |

The number assigned to this disaster for physical damage is 365106 and for economic damage is 9AJ600.

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

Dated: November 12, 2004.

**Hector V. Barreto,**  
*Administrator.*

[FR Doc. 04-25876 Filed 11-19-04; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### National Advisory Council; Public Meeting

The U.S. Small Business Administration's National Advisory Council will be hosting a public meeting via conference call to discuss such matters that may be presented by members, staff of the U.S. Small Business Administration, or interested others. The conference call will take place on Monday, November 29, 2004, at 11:30 a.m. eastern standard time. The call in number is 1-866-740-1260 with access code 3711001.

Additionally, we will be using <http://www.readytalk.com> to offer a live display of a PowerPoint Presentation. The access code is the same: 3711001.

Please log-in 10 minutes before the conference.

Anyone wishing to make an oral presentation to the Board must contact Balbina Caldwell, Director, National Advisory Council, no later than Friday, November 19, 2004, 409 3rd Street, SW., Washington, DC 20516, (202) 205-6914 phone, or (202) 481-4678 fax, or e-mail: [Balbina.Caldwell@sba.gov](mailto:Balbina.Caldwell@sba.gov).

**Matthew K. Becker,**

*Committee Management Officer.*

[FR Doc. 04-25752 Filed 11-19-04; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### [Summary Notice No. PE-2004-85]

### Petitions for Exemption; Summary of Petitions Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before December 13, 2004.

**ADDRESSES:** Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2004-18657 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m.,

<sup>19</sup> 17 CFR 200.30-3(a)(12).