

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51360; File No. SR-PCX-2005-15)

March 11, 2005

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval of Proposed Rule Change Relating to Primary Only Orders

On February 1, 2005, the Pacific Exchange, Incorporated (“PCX” or “Exchange”), through its wholly-owned subsidiary, PCX Equities (“PCXE”), 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 PCXE Rule 7.31(x), to provide that Primary Only Orders (“PO Orders”) may apply to Nasdaq securities traded on the Archipelago Exchange (“ArcaEx”) facility, and may be either market or limit orders. The proposed rule change was published for comment in the Federal Register on February 9, 2005.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

After careful review, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 51125 (February 2, 2005), 70 FR 6914.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f

consistent with Section 6(b)(5) of the Act⁶ because it is designed 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, and, in general, to protect investors and the public interest.

As proposed, PCXE Rule 7.31(x) would define a PO Order as a market or limit order that is to be routed to the primary market, until a cut-off time periodically determined by PCXE, and would expand the PO Order applicability from exclusively exchange-listed securities to include Nasdaq Stock Market, Inc. (“Nasdaq”) securities. The Commission notes that PO market orders in Nasdaq securities received prior to 6:28 a.m. PT will be marked On-Open and will be routed to Nasdaq for possible participation in Nasdaq’s Opening Cross. As such, the Commission believes that implementing these changes may provide market participants with more choices for executing orders on the opening. In addition, the Commission believes that expanding the applicability of PO Orders to limit orders and to Nasdaq listed securities should enhance the opportunity for ArcaEx users to have their orders executed on the primary market.

⁶ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-PCX-2005-15) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jill M. Peterson
Assistant Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).