

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50143; File No. SR-PCX-2004-47)

August 4, 2004

Self-Regulatory Organizations; Order Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. to Eliminate the Ability of Floor Brokers and Market Makers to Manually Trade with Orders and Quotes with Size in the Consolidated Book

On June 10, 2004, the Pacific Exchange, Inc. (“PCX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to eliminate PCX Rule 6.76(d)(2), which allows a Market Maker or Floor Broker to manually trade with orders and Quotes with Size³ in the Consolidated Book⁴ by vocalizing a bid or offer in a particular series and effecting a trade with the Order Book Official (“OBO”). On June 22, 2004, the Exchange filed Amendment No. 1 to the proposed rule change.⁵ The proposed rule change and Amendment No. 1 were published for comment in the Federal Register on July 1, 2004.⁶ The Commission received no comments on the proposal, as amended. This order approves the proposed rule change, as amended.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See PCX Rule 6.1(b)(33).

⁴ See PCX Rule 6.1(b)(37).

⁵ See letter from Steven B. Matlin, Senior Attorney, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 21, 2004 (“Amendment No 1”). In Amendment No. 1, the Exchange clarified the language describing the PCX Plus platform.

⁶ See Securities Exchange Act Release No. 49912 (June 24, 2004), 69 FR 39995.

securities exchange⁷ and, in particular, the requirements of Section 6(b)(5) of the Act⁸ and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change, as amended, is designed to promote just and equitable principles 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.

With this proposal, Market Makers and Floor Brokers will be able to interact with the Consolidated Book by electronic means only. The Exchange represented that manually effecting a trade with an OBO is not as efficient as effecting a trade electronically using the PCX Plus technology. Accordingly, the Commission believes that the proposal, which has the effect of requiring that all trades with orders and Quotes with Size in the Consolidated Book be executed electronically, should enhance the efficiency of trading with orders and Quotes with Size in the Consolidated Book. The Commission notes that this proposal does not change the manner in which Floor Brokers and Market Makers effect transactions with options that do not trade on PCX Plus.⁹

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 Phone conversation between Kelly Riley, Assistant Director, Division of Market Regulation, Commission, and Steve B. Matlin, Senior Attorney, Regulatory Policy, PCX, August 3, 2004.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (File No. SR-PCX-2004-47), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).