

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50508; File No. SR-PCX-2004-86)

October 8, 2004

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Require Financial/Operations Principals of PCX OTP Firms to Successfully Complete the Series 27 Examination

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 September 30, 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 Exchange. PCX filed this proposal pursuant to Section 19(b)(3)(A)³ of the Act and Rule 19b-4(f)(6)⁴ thereunder, which renders the proposal effective upon filing with the Commission.⁵ 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 PCX is proposing to amend PCX Rule 4.5(a) to require all financial/operations principals of PCX OTP Firms to successfully complete the National

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 240.19b-4(f)(6)

⁵ The PCX provided the Commission with written notice of its intent to file this proposed rule on September 15, 2004. See September 15, 2004 letter from Steven B. Matlin, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission.

Association of Securities Dealers, Inc.'s Limited Principal – Financial and Operations examination (“Series 27 Examination”). The text of the proposed rule change is below.

Proposed new language is in italics; proposed deletions are in brackets.

¶3723 Reports To Be Filed By Certain OTP Holders and OTP Firms

Rule 4.5(a). Unless the Exchange determines otherwise, every OTP Holder or OTP Firm, except as otherwise provided in Rule 4.7, shall file with the Exchange the reports prescribed by this Section. Each OTP Holder or OTP Firm subject to Exchange Act Rule 15c3-1 shall designate a Financial/Operations Principal. The duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the OTP Holder or OTP Firm complies with applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission of financial reports and the maintenance of books and records. Each Financial/Operations Principal is required to successfully complete the Financial and Operations Principal Examination (Series 27 Exam). Each Financial/Operations Principal designated by an OTP Holder or OTP Firm shall be registered in that capacity with the Exchange in a form and manner prescribed by the Exchange. A Financial/Operations Principal of an OTP Holder or OTP Firm may be a full-time employee of the OTP Holder or OTP Firm, or with the prior written approval of the Exchange, may be a part-time employee or independent contractor of the OTP Holder or OTP Firm. All OTP Holders and OTP Firms shall be in compliance with this Rule by March 31, 2005.

Rule 4.5(b) – (f) – 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 PCX included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The PCX 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

The Exchange is proposing to amend PCX Rule 4.5(a) to require all financial/operations principals of PCX OTP Firms to successfully complete the Series 27 Examination. PCX believes that requiring these individuals to successfully complete the Series 27 Examination will ensure that those individuals who prepare the financial statements for PCX OTP Firms will be sufficiently qualified to prepare such statements. PCX also believe that it will also bring the PCX qualifications to perform such functions up to date with the requirements of other self-regulatory organizations.⁶

2. Statutory Basis

⁶ See, e.g., Chicago Board Options Exchange Rule 3.6A.(a) Financial/Operations Principal.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act⁸ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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.

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

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, it has become effective pursuant to

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

Section 19(b)(3)(A) of the Act⁹ 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 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.

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. Please include File Number SR-PCX-2004-86 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-2004-86. 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/>

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

[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 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-2004-86 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Margaret H. McFarland
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).