

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51401; File No. SR-PCX-2005-26)

March 21, 2005

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Remote Market Makers' Ability to be Reappointed Options Issues

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 March 4, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by PCX. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder<sup>4</sup> as being concerned solely with the administration of the Exchange, which renders the proposal effective upon the 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

PCX is proposing to amend PCX Rules 6.35(g)(4) to eliminate the requirement that a Remote Market Maker ("RMM") wait one full calendar quarter prior to being reappointed in an option issue that such RMM previously relinquished. Below is the text of the proposed rule change. Proposed deletions are in brackets.

\* \* \* \* \*

---

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

**Rule 6.35 Appointment of Market Makers**

(a) – (f) No Change.

(g) Remote Market Makers

(1) – (3) No Change.

(4) Remote Market Makers may withdraw from trading an option issue that is within their primary appointment by providing the Exchange with a three-business-day written notice of such withdrawal. Remote Market Makers who fail to give advance written notice of withdrawal to the Exchange may be subject to formal disciplinary action pursuant to Rule 10. [Subsequent to withdrawal, the Remote Market Maker may not be re-appointed as a Remote Market Maker in that option issue for a period of one full calendar quarter.]

(5) – (6) No Change.

(h) – (i) 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, PCX 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

PCX Rule 6.35(g)(4) currently specifies that an RMM must wait one full calendar quarter prior to being reappointed in an option issue that was previously relinquished by such RMM. According to the Exchange, when PCX Rule 6.35(g)(4) was originally approved, the one calendar quarter prohibition was necessary to facilitate an effective rollout of PCX's new electronic trading platform, PCX Plus. In addition, the restriction was designed to mitigate the anticipated administrative burden related to frequent requests for the addition and removal of issues included in an RMM's primary appointment.

Since the introduction of PCX Plus, the original reasons for the one calendar quarter restriction no longer exist. PCX Plus has been fully implemented and is operating effectively. The need to prohibit RMMs from adding and removing issues on a regular basis to maintain system integrity is no longer necessary. Further, based on actual results, the Exchange has learned that RMMs do not switch issues on a frequent basis, as originally anticipated. As such, the Exchange overestimated the administrative burden related to adding and/or removing issues from an RMM's primary appointment. Based on actual results, the Exchange staff is capable of handling the administrative workload that would result from the removal of the current restriction.

Finally, the elimination of the one calendar quarter prohibition would allow RMMs to add and/or remove issues more freely and thus allow liquidity to move into those options issues where a greater trading demand exists. PCX believes that additional liquidity resulting from the removal of this restriction would allow it to provide better markets and thus benefit the public.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> 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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and subparagraph (f)(3) of Rule 19b-4 thereunder,<sup>8</sup> because it is concerned solely with the administration of the Exchange. 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.

---

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(3).

#### 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-2005-26 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-2005-26. 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 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-2005-26 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.<sup>9</sup>

Margaret H. McFarland  
Deputy Secretary

---

<sup>9</sup> 17 CFR 200.30-3(a)(12).