

*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; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing, or such shorter time as designated by the Commission, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6)<sup>9</sup> thereunder. 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.

The Exchange has requested that the Commission accelerate the operative date and waive the five day pre-filing requirement so that the proposed rule change may take effect immediately upon filing. The Commission believes that it is consistent with the protection of investors and the public interest to accelerate the operative date of the proposed rule change and to waive the five day pre-filing requirement. Acceleration of the operative date and waiving the pre-filing requirement will permit the Exchange to comply with the provisions of Section 11(a) of the Act and implement PCX Plus on October 6, 2003, without undue delay. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>10</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is

consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-2003-56 and should be submitted by November 5, 2003.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48597; File No. SR-PCX-2003-57]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Exchange's Schedule of Fees and Charges for Exchange Services**

October 7, 2003.

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 September 29, 2003, 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. 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 Exchange is proposing to change its marketing fee for certain options and to adopt new marketing fees for recently listed options. The text of the proposed rule change is available at the PCX and at the Commission.

**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 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**

The Exchange is proposing to make changes to its Schedule of Fees and Charges with respect to the following fees effective for the October 2003 trading month: (i) PCX Membership Fees relating to Options Orientation; (ii) PCX Options and Equities Regulatory Fees relating to termination of Registration Fees; (iii) PCX Options Ticket Data Entry Fee; (iv) Broker Dealer Surcharge Fee, and (v) PCX Options Floor, Market Maker and Remote Market Maker Fees.

**Orientation and Testing Fees**

Orientation and testing fees are comprised of different components including orientation and examination administration, background investigations and fingerprinting. Currently, the Exchange's Schedule of Fees and Charges—General Membership Fees—includes a \$1,000 Options Orientation Fee. In connection with the launch of PCX Plus,<sup>3</sup> the Exchange has reconfigured a development and delivery process for the Exchange's Orientation and Testing program. The Exchange plans to execute a transition plan to facilitate an orderly transfer of the responsibilities relating to the orientation and testing from a third-party provider to the PCX and the NASD. Pursuant to the revised

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19-4(f)(6)

<sup>10</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003) (order approving PCX 2002-36).

structure, the Exchange will develop orientation and testing content, and the NASD will administer the examination process. This arrangement will result in the elimination of certain third-party related charges. Therefore, as a result of reduced third-party costs incurred by the Exchange, the Exchange proposes to allow separate charges for background investigations (\$125) and fingerprinting (\$35), as applicants may only require these independent services from the Exchange.

#### PCX General Membership Fees— Registration Fee (Termination)

The Exchange proposes to amend its Schedule of Fees and Charges to adopt a Registered Representative Termination Fee of \$30.00. The Exchange represents that the revenue generated by this fee will help to offset the cost of increased regulatory efforts by the Exchange. The Exchange further represents that this fee is comparable to the fee imposed by the Chicago Board Options Exchange, Inc. and the American Stock Exchange, LLC.<sup>4</sup>

#### PCX Options Ticket Data Entry Fee

The Exchange currently charges Ticket Data Entry Fees of \$0.25 per firm trade and \$0.50 per Market Maker trade. The Exchange charges the fee for every manual ticket transaction that an Exchange Staff member enters into the PCX's Pacific Options Exchange Trading System for the Market Maker. The Exchange proposes to eliminate this fee because, due to electronic order entry, the Exchange believes this fee for manual handling is inconsequential and no longer necessary.

#### Broker Dealer Surcharge

Currently, the Exchange assesses a \$0.20 per contract side Broker Dealer Auto-Ex surcharge on orders that a Broker Dealer or Market Maker enters and which the Exchange executes on the Exchange's Member Firm Interaction system (without floor broker representation). The Exchange proposes to modify its Schedule of Fees and Charges and apply the same \$0.20 per contract rate to comparable PCX Plus transactions. That is, under the PCX Plus, Broker Dealer and Market Maker orders that are routed electronically and executed without a floor broker will also be subject to the \$0.20 per contract surcharge.

<sup>4</sup> See Securities Exchange Act Release Nos. 46266 (July 25, 2002), 67 FR 49969 (August 1, 2002) (SR-CBOE-2002-37) and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001) (SR-Amex-2001-22). Both Exchanges have a \$30 registered representative termination fee.

PCX Options Floor, Market Maker and Remote Market Maker Fees

In connection with PCX Plus, the Exchange has created a new category of member known as Remote Market Makers ("RMMs").<sup>5</sup> The Exchange currently charges a \$130 per month Options Floor Access Fee for all registered floor members and personnel. The PCX proposes to modify its rate schedule to add an RMM Access Fee in the amount of \$130 per month to be assessed on those RMMs who do not pay a floor access fee. The Exchange believes that it is appropriate to assess the same fee on those members who choose to access PCX markets electronically rather than through a physical presence on the floor.

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

#### 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>9</sup> because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days after 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

<sup>5</sup> See Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003) (SR-PCX 2002-36).

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR-PCX-2003-57 and should be submitted by November 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Aging Transport Systems Rulemaking Advisory Committee Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee (ATSRAC).

**DATES:** The ATSRAC will meet October 22 and 23, 2003, from 8:30 a.m. to 5 p.m.

**ADDRESSES:** FAA-AANC NDI, Validation Center, 3260 University Blvd., SE., Albuquerque, New Mexico, 87106.

**FOR FURTHER INFORMATION CONTACT:** Shirley Stroman, Office of Rulemaking,

<sup>10</sup> 17 CFR 200.30-3(a)(12).