

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee or other charge imposed by the Exchange, has become effective pursuant to section 19(b)(3) of the Act<sup>7</sup> and rule 19b-4(f)(2)<sup>8</sup> thereunder. At any time within 60 days of the filing of such 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. 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 Section. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-ISE-2003-13 and should be submitted by April 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47560; File No. SR-PCX-2003-08]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Exchange Fees and Charges

March 21, 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 March 11, 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. On March 21, 2003, PCX submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to amend its Schedule of Fees and Charges For Exchange Services in order to state that executions resulting from orders routed to the Exchange through the options intermarket linkage ("Linkage Orders"), other than satisfaction orders, will be subject to the same billing treatment as other fees related to broker-dealer executions. The Exchange intends to implement this fee on a one-year pilot basis retroactive to January 31, 2003. The text of the proposed fee schedule is below. Proposed language is italicized; deleted language is in brackets.

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#### SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

##### PCX Options: Trade-Related Charges

##### Transactions:

Customer .....	\$0.00 per contract side
[PCX] Market Maker .....	\$0.21 per contract side
Firm .....	\$0.10 per contract side for customer facilitation
Broker/Dealer .....	\$0.21 per contract side
Ticket Data Entry .....	\$0.25 per firm trade

\$0.50 per market maker trade

On-Line Comparison ..... \$0.05 per contract for firm, broker/dealer, and market maker executions

No on-line comparison charge is assessed on customer executions.

Broker Dealer Auto-Ex Surcharge ..... \$0.20 per contract

Linkage Fees<sup>1</sup> ..... *\$0.21 per transaction per contract side*

*\$0.05 comparison fee*

Order Cancellation ..... \$1.00 per MFI order canceled [1]<sup>2</sup>

Only applies to orders cancelled through the MFI in any month where the total number of orders cancelled through the MFI exceeds the total number of orders that same firm executed through the MFI in that same month.

##### Volume Discount Program

449,000 or lower ..... No reduction

450,000 to 474,999 ..... \$0.01

475,000 to 499,999 ..... \$0.02

500,000 to 524,999 ..... \$0.03

525,000 or higher ..... \$0.04

Marketing Charge ..... Rates Variable—See separate schedule

Cap on Marketing Charge ..... \$200 per trade

<sup>1</sup> Executions resulting from Linkage Orders, other than satisfaction orders, will be subject to this fee. This fee is applicable through an Exchange Pilot Program and will expire on January 31, 2004.

[1]<sup>2</sup> Only applies to orders cancelled through the MFI in any month where the total number of orders cancelled through the MFI exceeds the total number of orders that same firm executed through the MFI in that same month.

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

<sup>8</sup> 17 CFR 19b-4(f)(2).

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

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

<sup>2</sup> 217 CFR 240.19b-4.

<sup>3</sup> See letter from Mai Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated March 18, 2003 ("Amendment No. 1"). In Amendment No. 1, PCX added a statement to footnote number one of its Schedule

of Fees and Charges for Exchange Services limiting the revised linkage fees to a one-year pilot program ending January 31, 2004; and to change the name of the transaction fee from "PCX Market Maker" to "Market Maker."