

9/10 examination for supervisory persons whose duties do not include the supervision of options or municipal securities sales activity.⁹ In an effort to establish reciprocal qualification standards, NASD is proposing to accept the Series 9/10 examination in lieu of the Series 24 examination for associated persons who are required to register and qualify as Series 24 principals with NASD, provided that such persons pass the newly-developed Series 23 qualification examination in addition to passing the Series 9/10 examination.

Pursuant to section 15A(g)(3) of the Act,¹⁰ which requires NASD to prescribe standards of training, experience, and competence for persons associated with NASD members, NASD has developed the Series 23 examination program to establish that persons associated with NASD members who have passed the Series 9/10 examination and who are seeking to register and qualify with NASD as Series 24 principals have attained specified levels of competence and knowledge.

The Series 23 examination is a limited qualification examination that covers those subject matters that are covered on the Series 24 examination, but not included on the Series 9/10 examination. The Series 23 examination program tests a candidate's knowledge of securities industry rules and regulations pertaining to the supervision of investment banking, securities markets and trading, as well as financial responsibility requirements. A committee of industry representatives that oversees the Series 24 examination program, together with NASD staff, compared the subject matters covered on the Series 9/10 and Series 24 examinations to determine the topics that should be extracted from the Series 24 examination to create the Series 23 examination program. The committee, including NASD staff, developed the selection specifications, study outline, and question bank for the Series 23 examination.

The Series 23 examination will be divided into five topical sections. The topical sections and the number of questions designated to each such section are as follows: Supervision of Investment Banking Activities (25); Supervision of Trading and Market Making Activities (29); Supervision of Brokerage Office Operations (16); Sales Supervision, General Supervision of Employees, Regulatory Framework of

NASD (19); and Compliance with Financial Responsibility Rules (11). The selection specifications for the Series 23 examination, which NASD has omitted from this filing and has submitted with a request for confidential treatment under separate cover to the Commission's Secretary pursuant to Rule 24b-2 under the Act,¹¹ describe additional confidential information regarding the examination.

The Series 23 examination will be a 2½-hour, 100-question examination with 70% as the passing score.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of sections 15A(b)(6)¹² and 15A(g)(3) of the Act,¹³ which authorize NASD to prescribe standards of training, experience, and competence for persons associated with NASD members.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments 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 section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

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.

¹¹ 17 CFR 240.24b-2.

¹² 15 U.S.C. 78o-3(b)(6).

¹³ 15 U.S.C. 78o-3(g)(3).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

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, 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 NASD. All submissions should refer to file number SR-NASD-2003-91 and should be submitted by July 14, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland.

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48029; File No. SR-PCX-2002-25]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Pacific Exchange, Inc., To Eliminate the Lead Market Maker Concentration Limit of 15% of the Issues Traded on the Exchange's Options Floor

June 13, 2003.

On April 22, 2002, 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 the concentration limit for the number of issues that a Lead Market Maker ("LMM") on the Exchange may be allocated. Notice of the proposed rule change was published

⁹ See Securities Exchange Act Release No. 46631 (October 9, 2002), 67 FR 64187 (October 17, 2002) (SR-NYSE-2002-24) (approval order).

¹⁰ 15 U.S.C. 78o-3(g)(3).

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.