

processing of exchange-listed securities and Nasdaq securities. Specifically, PCX intends to amend PCXE 7.35(e) to set forth the treatment of Market Orders following the MOA and during the transition to the Core Trading Session.

a. Exchange-listed Securities

Currently, Market Orders for exchange-listed securities that are entered on the same side of the Imbalance⁶ during the time period 6:28 a.m. to 6:30 a.m. (Pacific Time) (hereinafter referred to as the "Core Freeze") are queued for execution and released into the market following the MOA. Accordingly, at the conclusion of the MOA (6:30 a.m. Pacific Time), the orders are released for execution in the ArcaEx system even though the primary markets (New York Stock Exchange and American Stock Exchange) are not open. This may result in trades being executed at prices outside of normal parameters. Currently, in such circumstances, the PCXE will either modify or cancel the execution price of a transaction that results from a "Clearly Erroneous" execution in accordance with PCXE Rules 7.10 and 7.11.

In order to prevent the Market Orders for exchange-listed securities from executing at disparate prices and subsequently printing the erroneous prices to the consolidated tape, the PCX now proposes to amend PCXE Rule 7.35(e) to state that Market Orders that are entered on the same side of the Imbalance during the Core Freeze will be converted into PO Orders at 6:30 am (Pacific Time) or at the conclusion of the MOA, whichever is later, and thereafter routed to the primary market for execution. Once the primary market has opened, those orders would be processed in a manner consistent with how those order types are currently processed during the Core Trading Session.⁷

Likewise, if no Imbalance exists during the Core Freeze, any Market Orders for exchange-listed securities entered during that time are ineligible for the MOA. Instead, those Market Orders will also be converted into PO Orders at 6:30 am (Pacific Time) or at the conclusion of the MOA, whichever is later, and thereafter routed to the primary market for execution.

Additionally, Market Orders for exchange-listed securities that are: (1) Entered before 6:28 a.m. (Pacific Time) but unmatched during the MOA; or (2)

are entered at 6:30 a.m. (Pacific Time) or at the conclusion of the MOA, whichever is later, but before the primary market has opened, shall be converted into a PO Order and thereafter routed to the primary market for execution.

b. Nasdaq Securities

The PCX proposes to amend PCXE Rule 7.35(e) to provide for additional criteria for processing Market Orders for Nasdaq securities. Accordingly, Market Orders for Nasdaq securities entered before 6:28 a.m. (Pacific Time) but unmatched during the MOA, shall become eligible for execution at 6:30 a.m. (Pacific Time) or at the conclusion of the MOA, whichever is later.

Market Orders for Nasdaq securities entered on the same side of the Imbalance during the Core Freeze, are ineligible for the MOA and shall be queued until 6:30 a.m. (Pacific Time) or the conclusion of the MOA, whichever is later, at which time the queued Market Orders shall become eligible for execution during the Core Trading Session.

Finally, if no Imbalance exists during the Core Freeze, any Market Orders for Nasdaq securities entered during that time shall be queued until 6:30 a.m. (Pacific Time) or at the conclusion of the MOA, whichever is later, at which time those Market Orders shall become eligible for execution during the Core Trading Session.

2. Statutory Basis

The PCX believes that the proposed rule change is consistent with Section 6(b)⁸ of the Act, in general, and furthers the objectives of Section 6(b)(5),⁹ in particular, because it is designed to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and to protect investors and the public interest.

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

The PCX 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

The PCX neither solicited nor received written comments concerning the proposed rule change.

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

Because the foregoing proposed rule change effects a change in an existing order-entry or trading system of a self-regulatory organization that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system, it has become effective pursuant to Section 19(b)(3)(A)¹⁰ of the Act and Rule 19b-4(f)(5)¹¹ thereunder,

At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the 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 Room.

Copies of such filings will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-2003-45 and should be submitted by October 3, 2003.

⁶ See PCXE Rule 1.1(q) and PCXE Rule 1.1(r) for a definition of the terms "Imbalance" and "Indicative Match Price," respectively.

⁷ Once routed to an away market, the orders will be subject to the applicable trading rules of the relevant primary market.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 19b-4(f)(5).