

It would not be mandatory that all limit orders of 1000 shares or less be entered as ILA orders; rather, the member organization entering the order can choose to enter an ILA order when such member organization believes that the speed and certainty of an execution at the Exchange's published bid or offer price is in its customer's best interest. In such a case, the member organization would enter an ILA order priced at the Exchange's published offer price (in the case of an ILA order to buy), or an ILA order priced at the Exchange's published bid price (in the case of an ILA order to sell). The ILA order would then receive an instant execution without being exposed to the auction market, provided the bid or offer is still available. If the ILA feature is not available for any reason, the ILA order will be cancelled. Moreover, any member organization that believes in any particular case that the customer's interests would be best served by affording the customer's order the opportunity for price improvement may enter a limit or market order into BEACON for representation in the auction market, rather than an ILA order.

ILA orders will be reported to the Consolidated Tape Association with a unique identifier, a ".e", to denote that they were instantly executed. The Exchange's published bid or offer would be automatically decremented to the extent of the size of the ILA order to reflect the ILA execution. The contra side of the ILA order would be the trading interest reflected in the Exchange's bid or offer, with such interest participating in the execution according to the Exchange's auction market principles of priority and parity. Additionally, if an inbound ITS commitment has been processed and apportioned according to the rules set forth in Chapter XXXI, Intermarket Trading System, based on orders on the BSE book, an ILA execution cannot take place against that same order. Finally, any ILA order, which is for a size greater than that displayed in the BSE book will receive an instant execution up to the

displayed size of the BSE quotation. Any excess will automatically be cancelled.

The Exchange's proposal would implement a new set of rules, set forth in Section 8 of Chapter XXXIII, BEACON<sup>5</sup>, and an addition to Chapter 1, Definitions, Section 3, Orders.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act<sup>6</sup> and Section 6(b)(5) of the Act,<sup>7</sup> in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between brokers or dealers.

The Exchange also believes that the proposed rule change is designed to support the principles of section 11A(a)(1) of the Act<sup>8</sup> in that it seeks to assure economically efficient execution of securities transactions, makes it practicable for brokers to execute investor's orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer.

### 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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 Exchange. All submissions should refer to File No. SR-BSE-2003-08 and should be submitted by November 5, 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. 34-48595; File No. SR-PCX-2003-56]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Pacific Exchange, Inc. Relating to an Amendment to the PCX Plus Electronic Book Execution Feature and Implementation Date

October 6, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

BSE published ask price. Second, the NYSE rule includes an exclusion, relating to an automatic execution trade being more than 5 cents away from the previous trade in that security executed on the NYSE. Third, the NYSE rule requires the display of any unexecuted portion of a Direct+ order or any Direct+ orders that cannot be immediately filled as limit orders regular way. The BSE proposal requires that such orders be canceled if not immediately filled. Finally, the BSE proposal includes an exclusion for such instances when the national best bid or offer spread is \$0.25 or more. Teleconference between John Boese, Vice President, Legal and Compliance, BSE, and Christopher B. Stone, Special Counsel, Division of Market Regulation, Commission (September 30, 2003).

<sup>5</sup> The existing language in this Section will be deleted, as it applied to Y2K systems testing requirements, and replaced with provisions detailing the instant proposal.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 17 U.S.C. 78k-1(a)(1).

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