

*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, 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 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).