

(D) Rights offerings, exchange offers, or offerings made pursuant to a merger or acquisition;

(E) Offerings of investment grade asset-backed securities;

(F) Offerings of convertible securities;

(G) Offerings of preferred securities; [and]

(H) Offerings of an investment company registered under the Investment Company Act of 1940; and

(I) Offerings of securities (in ordinary share form or ADRs registered on Form F-6) that have a pre-existing market outside of the United States.

[(11)10] "Restricted person" means:

(A) Members or Other Broker/Dealers

(B) Broker/Dealer Personnel

(i) Any officer, director, general partner, associated person, or employee of a member or any other broker/dealer (other than a limited business broker/dealer);

(ii) Any agent of a member or any other broker/dealer (other than a limited business broker/dealer) that is engaged in the investment banking or securities business; or

(iii) An immediate family member of a person specified in subparagraph (B)(i) or (ii) if the person specified in subparagraph (B)(i) or (ii):

(a) Materially supports, or receives material support from, the immediate family member;

(b) Is employed by or associated with the member, or an affiliate of the member, selling the new issue to the immediate family member; or

(c) Has an ability to control the allocation of the new issue.

(C) Finders and Fiduciaries

(i) With respect to the security being offered, a finder or any person acting in a fiduciary capacity to the managing underwriter, including, but not limited to, attorneys, accountants and financial consultants; and

(ii) An immediate family member of a person specified in subparagraph (C)(i) if the person specified in subparagraph (C)(i) materially supports, or receives material support from, the immediate family member.

(D) Portfolio Managers

(i) Any person who has authority to buy or sell securities for a bank, savings and loan institution, insurance company, investment company, investment advisor, or collective investment account.

(ii) An immediate family member of a person specified in subparagraph (D)(i) that materially supports, or receives material support from, such person.

(E) Persons Owning a Broker/Dealer

(i) Any person listed, or required to be listed, in Schedule A of a Form BD (other than with respect to a limited business broker/dealer), except persons identified by an ownership code of less than 10%;

(ii) Any person listed, or required to be listed, in Schedule B of a Form BD (other than with respect to a limited business broker/dealer), except persons whose listing on Schedule B relates to an ownership interest in a person listed on Schedule A identified by an ownership code of less than 10%;

(iii) Any person listed, or required to be listed, in Schedule C of a Form BD that meets the criteria of subparagraphs (E)(i) and (E)(ii) above;

(iv) Any person that directly or indirectly owns 10% or more of a public reporting company listed, or required to be listed, in Schedule A of a Form BD (other than a reporting company that is listed on a national securities exchange or is traded on the Nasdaq National Market, or other than with respect to a limited business broker/dealer);

(v) Any person that directly or indirectly owns 25% or more of a public reporting company listed, or required to be listed, in Schedule B of a Form BD (other than a reporting company that is listed on a national securities exchange or is traded on the Nasdaq National Market, or other than with respect to a limited business broker/dealer).

(vi) An immediate family member of a person specified in subparagraphs (E)(i)–(v) unless the person owning the broker/dealer:

(a) Does not materially support, or receive material support from, the immediate family member;

(b) Is not an owner of the member, or an affiliate of the member, selling the new issue to the immediate family member; and has no ability to control the allocation of the new issue.

* * * * *

VII. Solicitation of Comments on Amendment No. 5

Interested persons are invited to submit written data, views, and arguments on Amendment No. 5, including whether the amendment 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 No. SR-NASD-99-60 and should be submitted by November 21, 2003.

VIII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸⁴ that the proposal (SR-NASD-99-60) and Amendment Nos. 1 to 4 thereto are approved, and that Amendment No. 5 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-27463 Filed 10-30-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48700; File No. SR-PCX-2003-35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. To Amend Its Corporate Governance and Disclosure Policies

October 24, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 14, 2003, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On October 14, 2003, the Exchange filed an amendment to the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule

¹⁸⁴ *Id.*

¹⁸⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Steven B. Matlin, Senior Counsel, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated October 8, 2003 ("Amendment No. 1"). In Amendment No. 1, the Exchange made changes to proposed rule text in PCX Rule 5.3(k)(5)(B)(ii)(a).