

Rule 10.13(h)(42). The proposed fines are \$1,000 for a first violation, \$2,500 for a second, and \$3,500 for a third.

Fourth, the Exchange proposes to adopt new PCX Rules 10.13(h)(43) and 10.13(k)(i)(43) into the MRP and RFS for violation of the two-sided quotation restriction for RMMs. PCX Rule 6.37(h)(5) restricts RMMs from entering two-sided quotations in options issues that are not included in their primary appointments. RMMs are, however, permitted to enter single-sided quotes and multiple orders to buy and sell the same option issues. Under the proposed rule, a RMM that enters a two-sided quotation in options issues outside of their primary appointments will be subject to disciplinary action pursuant to PCX Rule 10.13(h)(43). The proposed fines are \$500 for a first violation, \$1,000 for a second, and \$2,500 for a third.

Fifth, the Exchange proposes to adopt new PCX Rules 10.13(h)(44) and 10.13(k)(i)(44) for failure to maintain an accurate record of orders. PCX Rule 6.68 requires members to maintain and preserve a written record of every order for a period of time specified by the Commission. The proposed fines are \$500 for a first violation, \$1,000 for a second, and \$2,500 for a third.

The Exchange also proposes to amend PCX Rule 10.13(k)(i)(39) to include a fine schedule for RMMs' failure to meet the 60% quoting requirement. The proposed fine schedule for PCX Rule 10.13(h)(39) was inadvertently omitted in a previous rule filing,<sup>4</sup> and it is consistent with the fines established for violations by a Market Maker involving the 75% primary appointment requirement and the 60% in-person trading requirement.<sup>5</sup> In addition, the Exchange proposes to amend the text of current PCX Rules 10.13(h)(25) and 10.13(k)(i)(25) to include references to PCX Rule 6.37(h)(5) for purposes of clarifying the application of the fine schedule for violations by RMMs involving the 75% primary appointment requirement.

Finally, the Exchange proposes two amendments to PCX Rules 10.13(h)(33) and 10.13(k)(i)(33) of the MRP and RFS. First, the corresponding rule number will be changed to reflect the correct rule number, which is "Rule 6.87(d)(2)". Second, the equivalent rule violation in PCX Plus, "Rule 6.90(e)(1)", will be added to this MRP and RFS.

The Exchange believes that the proposed rule changes will serve to

significantly strengthen the ability of the Exchange to carry out its oversight responsibilities as a self-regulatory organization ("SRO"). The rules should also aid the Exchange in carrying out its surveillance and enforcement functions. Under the proposed rules, the Enforcement Department would continue to exercise its discretion under PCX Rule 10.13(f) and take cases out of the MRP to pursue them as formal disciplinary matters if the facts or circumstances warrant such action.<sup>6</sup>

In addition, two of the proposed rule adoptions (*i.e.*, Proposed PCX Rules 10.13(h)(40)–(41) and 10.13(k)(i)(40)–(41)) correspond to those found in the Chicago Board Options Exchange ("CBOE") and the American Stock Exchange ("Amex") MRP, respectively.<sup>7</sup> Thus, the Exchange is proposing to include such rules into the MRP to conform to those found in other SROs' MRPs.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it will promote just and equitable principles of trade; facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system; and protect investors and the public interest. The Exchange believes that the proposal is also consistent with Section 6(b)(6) of the Act,<sup>10</sup> which requires that members and persons associated with members be appropriately disciplined for violations of Exchange rules.

### 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

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

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 PCX. All submissions should refer to file number SR-PCX-2003-32 and should be submitted by December 3, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 03-28275 Filed 11-10-03; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>4</sup> See Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003) (Order approving PCX Plus).

<sup>5</sup> See PCX Rules 10.13(k)(i)(25) and 10.13(k)(i)(26).

<sup>6</sup> The Commission notes that certain of the rules that PCX proposes to add to its MRP relate to market making obligations, and further notes that it previously has indicated that "only the most technical and non-substantive violations" of a market maker's obligations should be handled pursuant to a minor rule plan. Securities Exchange Act Release No. 27878 (April 14, 1990), 55 FR 13345, [SR-NYSE-89-44].

<sup>7</sup> See *e.g.*, CBOE Rule 17.50(g)(5) and Amex Rule 590G.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(6).

<sup>11</sup> 17 CFR 200.30-3(a)(12).