

("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX. 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 amend the Trade-Related Charges portion of its Schedule of Fees and Charges ("Schedule"). The text of the proposed rule change is available at the Office of the Secretary, 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 PCX 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 amend the Trade-Related Charges portion of its Schedule in order to create an incentive program for Market Makers with respect to transaction charges. Currently, Market Maker transactions are assessed a charge of \$0.21 per contract side for all issues regardless of market share or Top 120 designation. As part of its ongoing effort to secure existing volumes and attract higher levels of liquidity, the PCX is proposing to adopt a three-tiered rate schedule that would lower transaction charges for Market Makers (including Lead Market Makers) as the Exchange attains higher levels of market share on individual issues.³

Specifically, the incentive program would lower marginal transaction costs on an issue-by-issue basis for those underlying symbols that the PCX attained market share beyond certain tiers. The three-tiered system is based on the percentage of market share attained for each issue and whether the

issue is designated as a Top 120. The table below shows the marginal Market Maker transaction rates for Top 120 Issues:

Market share tiers	Marg rate
0.00% to 11.00%	\$0.21
11.00% to 20.00%	0.11
20.00% to 100.00%

Under the proposed rate schedule, the rates would be applied based on market share at the end of the trade month. The PCX proposes that these Market Maker transaction rates would be assessed in a fair and equitable manner to ensure that all Market Makers trading in a particular issue receive the same rate incentives. Accordingly, a Top 120 issue that had 1,000,000 contracts in national volume and a 30% PCX market share (or 300,000 PCX contracts) would be billed in the following manner. The first 11% in market share would be billed at a transaction rate of \$0.21 per contract ($11\% \times 1,000,000 \times \$0.21 = \$23,100$). The next 9% in market share would be billed at a transaction rate of \$0.11 per contract ($9\% \times 1,000,000 \times \$0.11 = \$9,900$). The final 10% in market share would be billed at a transaction rate of \$0.00. The net effective rate on said issue would be \$0.11 per contract (total transaction charges/total PCX market maker contracts or $\$33,000/300,000$ contracts). All Market Makers would receive the same rate incentive because all Market Maker volumes in that issue would be charged the same effective rate: \$0.11 per contract.⁴

Rates for issues that are not in the Top 120 in terms of national volume will still benefit from the rate incentive, albeit employing a different set of marginal rates. The table below summarizes those marginal transaction rates for Market Makers:

Market share tiers	Marg rate
0% to 15%	\$0.21
15% to 25%	0.15
25% to 100%	0.05

Using the previous example, an issue that was not in the Top 120 but had the same contract volumes would receive the following billing treatment. The first 15% in market share would be billed at a transaction rate of \$0.21 per contract ($15\% \times 1,000,000 \times \$0.21 = \$31,500$). The

⁴ For purposes of simplicity, this example assumes that all PCX contracts were executed by Market Makers. In the event this was not the case, for example, the Exchange had the same contract volumes but 100,000 contracts were customer contracts and 200,000 Market Maker contracts, Market Makers would still receive the same rate incentive: \$0.11 per Market Maker contract.

next 10% in market share would be billed at a transaction rate of \$0.15 per contract ($10\% \times 1,000,000 \times \$0.15 = \$15,000$). The final 5% in market share would be billed at a transaction rate of \$0.05 ($5\% \times 1,000,000 \times \$0.05 = \$2,500$). The net effective rate on said issue would be \$0.1633 per contract ($\$49,000$ in charges divided by 300,000 contracts). The PCX believes all Market Makers would receive the same rate incentive because all Market Maker volumes in that issue would be charged at the same effective rate: \$0.1633 per contract. Singly listed issues would continue to be billed at the current flat Market Maker transaction rate of \$0.21 per contract.

The Exchange believes that the incentive program will help the PCX attract higher levels of liquidity and therefore enable the PCX to compete aggressively with other market centers. Moreover, the PCX believes the incentive program provides for a natural means of attracting more crowd participation on the trading floor. The incentive program will apply equally to issues traded on the POETS and the PCX Plus trading platforms.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(4) requirements that the rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

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

The foregoing proposed rule change has become effective pursuant to section

⁵ 15 U.S.C. 78f(b).

³ The Exchange states that transaction charges will not change for Customer, Firm or Broker/Dealer transactions.