

change.⁸ The Commenter expressed concern that, as drafted, the amendment proposed by the NASD to Rule 10306(b) was a disincentive to settlement because parties would be obligated to pay for hearings that were scheduled months in advance if the case settled. In pertinent part, the proposed rule language stated:

The terms of a settlement agreement do not need to be disclosed to NASD Dispute Resolution. However, the parties will remain responsible for payment of fees incurred, including fees for previously scheduled hearing sessions.

The Commenter pointed out that one of the factors that contributes to the decision to settle a case is the desire to avoid fees and assessments. However, the Commenter felt that under the NASD's proposed language, parties who settled their case after a hearing was scheduled, but several months before the hearing was held, would necessarily incur hearing fees.

In response to the Commenter's concerns, the NASD submitted Amendment No. 1 to the proposed rule change.⁹ In Amendment No. 1, the NASD noted that Rules 10332(f) and (g) of the Code provide that settling parties are only responsible for payment of hearing session fees for hearings held or scheduled within eight days of the date that NASD Dispute Resolution is notified of the settlement. Therefore, the NASD explained that under the current rule and the proposed rule change, settling parties would only be responsible for fees for hearing sessions that were held, or scheduled to be held, within eight days of the date the NASD Dispute Resolution receives notice of the settlement.

However, the NASD amended the proposed rule to eliminate any possible confusion regarding whether the proposed rule change would alter the Code's current provisions regarding what hearing session fees settling parties are required to pay. The NASD proposed to amend Rule 10306(b) to read, in pertinent part:

The terms of a settlement agreement do not need to be disclosed to the NASD Dispute Resolution. However, the parties will remain responsible for payment of fees incurred under the Code.¹⁰

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations

thereunder applicable to a national securities association.¹¹ The Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹² which requires, among other things, that the Association's rules be designated to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Specifically, the Commission believes that the proposed rule change will help protect investors and the general public by simplifying and clarifying various fee-related provisions of the Code.

V. Amendment No. 2.

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In amendment No. 2, the Exchange clarified that the proposed rule change would not effect the applicability of the Code's current provisions regarding what hearing session fees settling parties are required to pay.

The Commission finds that the NASD's proposed change in Amendment No. 2 simply clarifies the proposed rule change and raises no new regulatory issues. Further, the Commission believes that Amendment No. 2 does not significantly alter the original proposal, which was subject to full notice and comment period. Therefore, the Commission finds that granting accelerated approval to Amendment No. 2 is appropriate and consistent with Section 19(b)(2) of the Act.¹³

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the proposed 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 amendment, all written statements with respect to the proposed amendment that are filed with the Commission, and all written communications relating to the amendment 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD.

All submissions should refer to File No. SR-NASD-2001-21 and should be submitted by August 15, 2001.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-NASD-2001-21), as amendment, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-18445 Filed 7-24-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release no. 34-44571; File No. SR-PCX-2001-21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to Membership, Options Floor and Market Maker Fees

July 18, 2001.

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 May 31, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On July 12, 2001, the Exchange filed Amendment No. 1 to the proposal.³ The Commission

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 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 Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated by July 11, 2001 ("Amendment No. 1"). In Amendment No. 1, the Exchange requested that the proposed rule change be considered a "non-controversial" rule change pursuant to paragraph (f)(6) of Rule 19b-4 under Section 19b-4(b)(3)(A)(iii) of the Act. In the Exchange's original filing, it had invoked Section 19(b)(3)(A)(ii) of the Act and Rule 19b-4(f)(2) thereunder as the basis for effectiveness upon filing of the proposed rule change. In addition, in

⁸ See note 4, *supra*.

⁹ See note 5, *supra*.

¹⁰ See note 4, *supra*.

¹¹ In approving this rule proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78o(b)(6).

¹³ 15 U.S.C. 78s(b)(2).

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 PCX is proposing to modify its Schedule of Fees and Charges for Market Maker Handheld Tethering Network Fees, Registered Representative Fees, and certain other fees designed to recover costs on leased space, phone maintenance and options orientation and test fees.

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 make the following changes to its Schedule of Fees and Charges:

General Member Fees

(1) Options Orientation and Test Fee:

The PCX incurs certain expenses in connection with administering orientations and test for new members. According to the Exchange, these costs, which are incurred as part of the investigation, orientation and testing process, are currently recovered via an options study package and test fee, an investigation fee and a fingerprinting fee. In order to consolidate these fees and cover additional cost of improving the orientation program, the Exchange proposes to increase the orientation and test fee from \$200 to \$1,000 and to eliminate the \$100 investigation fee and the \$30 and \$10 fingerprinting fees. The fee increase is based on the costs incurred in providing an updated and more comprehensive curriculum. The additional costs include production, development, proctor fees and staff

charges. The consolidated fee also recovers the revenues that were previously collected through the fingerprinting and investigation charges.

(2) Regulatory Fees

(i) Registered Representative Fee

The Exchange currently charges an annual fee of \$35 to all Register Representatives and Registered Option Principals for maintenance, new application, or transfer of registration status. This fee supports the costs related to regulatory oversight and enforcement. To better align PCX's fees with the actual costs of delivering these services, the Exchange proposes to increase the Registered Representative fee from \$35 to \$45 per year.

Options Floor Fees

(1) Marker Maker Hand Held Tethering Fee

Currently, Market Makers use portable hand held terminals for trade entry, position tracking, stock layoff and other services. To upgrade this system, the Exchange is installing a hardwired network. The Exchange proposes to impose a \$500 one time signup fee per handheld and a \$100 fee per registered user per month. These fees reflect the Exchange's costs of purchasing the hardware and installing the network.

(2) Vendor Equipment Room Usage Fee

The Vendor Equipment Room ("VER") houses servers used to transmit market data and support trading systems. The PCX represents that currently the VER costs are not passed on to the member firms that use the facility. The VER overhead costs include rent, utilities, and insurance and the costs of developing the facility. In order to cover the costs of providing the facility, the Exchange proposes to impose on cabinet users a \$2,150 fee per cabinet per month.⁴

(3) Telecom Move/Add/Change Fee

The Exchange incurs certain expenses in Moving/Adding or Changing ("MAC") phone lines on the options floor. Currently, according to the PCX, the telecom MAC expenses are not passed on to the members requesting these services. In order to align fees with PCX's expenses incurred in delivering telecom MAC services, the Exchange proposes to assess a \$100 per hour fee on a pro rata basis.

⁴ The Vendor Equipment Room is a recently-opened, air-conditioned facility housing equipment used by member firms and non-members that are vendors (collectively, cabinet users). The proposed fee on cabinet users is intended to recoup development costs and cover the ongoing costs of operating the facility. Telephone call from Cindy Sink, Senior Attorney, PCX, to Geoffrey Pemble, Attorney, Division of Market Regulation, Commission (July 10, 2001).

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)⁵ of the Act, in general, and Section 6(b)(4) of the Act,⁶ in particular, because it provides 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

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

The proposed rule change, as amended, has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸ 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; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6).¹⁰

The Exchange has requested that the Commission waive the 5-day pre-filing requirement and accelerate the operative date of the proposal. The Commission finds that it is appropriate to accelerate the operative date of the proposal and designate the proposal to become operative immediately.¹¹

The Commission finds good cause for waiving the 5-day pre-filing requirement and accelerating the operative date of the proposed rule change, as amended. Acceleration of the operative date will enable the Exchange immediately to impose new fees in order to recover its costs incurred in development and

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 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).

Amendment No. 1, the PCX requested that the Commission accelerate the operative date of the proposal and waive the 5-day pre-filing notice requirement.

maintenance or certain Exchange systems and services, consistent with the Section 6(b)(4) of the Act, which requires that an Exchange's rules provide for the equitable allocation of reasonable dues, fees, and other changes among members, issuers, and other persons using its facilities.¹²

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 be 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.¹³

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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-2001-21 and should be submitted by August 15, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-18446 Filed 7-24-01; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before August 24, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: BusinessLINC Program.

No: 2184.

Frequency: On Occasion.

Description of Respondents: Small Business Owners.

Responses: 81.

Annual Burden: 4,200.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01-18453 Filed 7-24-01; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 3725]

Culturally Significant Objects Imported for Exhibition

Determinations: "Masterpieces and Master Collectors: Impressionist and Early Modern Paintings From the Hermitage and Guggenheim Museums"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to

the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit "Masterpieces and Master Collectors: Impressionist and Early Modern Paintings from the Hermitage and Guggenheim Museums," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects will be imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Guggenheim Hermitage Museum in Las Vegas, NV, from on or about September 16, 2001, to on or about March 17, 2002, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619-6529). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: July 19, 2001.

Brian J. Sexton,

Deputy Assistant Secretary for Professional Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 01-18569 Filed 7-24-01; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2001-53]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's

¹² 15 U.S.C. 78f(b)(4).

¹³ For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on July 12, 2001, the date the PCX filed Amendment No. 1.

¹⁴ 17 CFR 200.30-3(a)(12).