

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40644; File No. SR-PCX-98-44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Exchange, Inc. Relating to Fees for the Use of Exchange-Sponsored Hand Held Terminals for Options Floor Brokers

November 5, 1998.

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 September 11, 1998, 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 29, 1998, the Exchange filed Amendment No. 1 to the proposal.³ 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 Schedule of Fees and Charges for Exchange Services by adding charges for the use of exchange-sponsored hand held terminals for options floor brokers.

The text of the proposed rule change is available at the Office of the Secretary, 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 Exchange 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

Background. With the use of hand held terminals, PCX Member Firms have the advantage of sending their orders electronically to either (1) a floor broker's exchange-sponsored terminal located in the trading crowd;⁴ (2) a Member Firm booth located on the trading floor; or (3) to POETS,⁵ where they will be automatically executed by Auto-Ex⁶ or maintained in Auto-Book.⁷

Proposal. The Exchange proposes to charge a monthly equipment fee of \$200 for each exchange-sponsored hand held terminal to be billed to the Floor Broker registered to use it. In addition, the Exchange proposes to charge \$0.03 per contract for orders of 10 contracts or less which are not directed to POETS through a Member Firm Interface ("MFI"),⁸ and are executed via the exchange-sponsored hand held terminal. This per contract charge will be billed to the order flow provider.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)⁹ of the Act, in general, and furthers the objectives of Section 6(b)(4),¹⁰ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its

⁴ See Securities Exchange Act Release No. 39970 (May 7, 1998), 63 FR 26662 (May 13, 1998) (Order approving File No. SR-PCX-97-28).

⁵ The Pacific Option Exchange Trading System ("POETS") is the Exchange's automated options trading system. See generally Securities Exchange Act Release No. 27633 (Jan. 18, 1990), 55 FR 2466 (Jan. 24, 1990) (Order approving File No. SR-PSE-89-26).

⁶ Orders executed by Auto-Ex may be automatically executed at the disseminated bid or offering price. *Id.*

⁷ Auto-Book maintains non-marketable limit orders based on limit price and time of receipt. *Id.*

⁸ The MFI is an electronic order delivery and reporting system that allows member firms to route orders for execution by the automatic execution feature of POETS as well as to route limit orders to the Options Public Limit Order Book. Orders that do not reach those two destinations are defaulted to a member firm booth. MFI also provides member firms with instant confirmation of transactions to their systems.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change establishes or changes a due, fee, or other charge and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and subparagraph (e)(2) of Rule 19b-4 thereunder.¹²

At any time within 60 days of the filing of the amended 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing; including whether the proposed rule change and Amendment No. 1 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Exchange.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(e)(2).

¹¹ 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 Robert Pacileo, Staff Attorney, Regulatory Policy, PCX, to David Sieradzki, Attorney, Division of Market Regulation, SEC dated October 27, 1998 ("Amendment No. 1"). In Amendment No. 1, the Exchange clarifies the proposal to indicate that these fees are for exchange-sponsored hand held terminals only.

All submissions should refer to File No. SR-PCX-98-44 and should be submitted by December 1, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

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DEPARTMENT OF STATE

[Public Notice 2919]

Bureau of Political-Military Affairs; Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collections.

DSP-9, Statement of Registration, OMB No. 1405-0002

DSP-5, Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, OMB No. 1405-0003

DSP-61, Application/License for Temporary Import of Unclassified Defense Articles, OMB No. 1405-0013

DSP-83, Non-Transfer and Use Certificate, OMB No. 1405-0021

DSP-85, Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data, OMB No. 1405-0022

DSP-73, Application/License for Temporary Export of Unclassified Defense Articles, OMB No. 1405-0023

Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services, OMB No. 1405-0025

DSP-94, Authority to Export Defense Articles and Services Sold under the Foreign Military Sales (FMS) Program, OMB No. 1405-0051

DSP-119, Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, OMB No. 1405-0092

Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, OMB No. 1405-0093

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposals submitted to OMB:

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Statement of Registration.

Frequency: Every one to four years.

Form Number: DSP-9.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 2 hours.

Total Estimated Burden: 10,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.

Frequency: On occasion.

Form Number: DSP-5.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 20,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Temporary Import of Unclassified Defense Articles.

Frequency: On occasion.

Form Number: DSP-61.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 4,500 hours. (Total Estimated Burden based on number of forms received per year.)

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Non-Transfer and Use Certificate.

Frequency: On occasion.

Form Number: DSP-83.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 17,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data.

Frequency: On occasion.

Form Number: DSP-85.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 1,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 1,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Temporary Export of Unclassified Defense Articles.

Frequency: On occasion.

Form Number: DSP-73.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 2,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services.

Frequency: On occasion.

Form Number: none.

Respondents: Business organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 12,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Reinstatement.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Authority to Export Defense Articles and Services Sold Under the Foreign Military Sales (FMS) Program.

Frequency: On occasion.

¹³ 17 CFR 200.30-3(a)(12).