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 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 Nasdaq. All submissions should refer to File No. SR–NASD–2003–86 and should be submitted by June 23, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–13607 Filed 5–30–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47929; File No. SR–NYSE–2003–15]

Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Arbitration

May 27, 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 May 12, 2003 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission (''Commission'') the proposed amendments to its arbitration rules as described in Items I, II and III below, which items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 proposed rule change consists of amendments to NYSE Rules 609 (Peremptory Challenge), 610 (Disclosures Required of Arbitrators), 619 (General Provisions Governing Subpoenas, Production of Documents, etc.), and the Voluntary Supplemental Procedures for Selecting Arbitrators (Pilot Program). The text of the proposed rule change is below. New language is italicized; deleted language is in brackets.

* * * * *

Rule 609. [Peremptory] Challeng[e]ing Potential Arbitrators

(a) In any arbitration proceeding, each party shall have the right to one peremptory challenge. In arbitrations where there are multiple claimants, respondents and/or third party respondents, the claimants shall have one peremptory challenge, the respondents shall have one peremptory challenge and the third-party respondents shall have one peremptory challenge, unless the Director of Arbitration determines that the interests of justice would be best served by awarding additional peremptory challenges. Unless extended by the Director of Arbitration, a party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within ten (10) business days of notification of the identity of the person(s) named under Rule 619(d), (e) or Rule 608 whichever comes first.

(b) There shall be unlimited challenges for cause. *A challenge for cause to a particular arbitrator will be granted where it is reasonable to infer an absence of impartiality, the presence of bias, or the existence of some interest on the part of the arbitrator in the outcome of the arbitration as it affects one of the parties. The interest or bias must be direct, definite, and capable of reasonable demonstration, rather than remote or speculative.*

Rule 610. Disclosures Required of Arbitrators

(a) No change.

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration;

(2) Any existing or past financial, business, professional, family or social relationships that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators [should] *shall* disclose any such relationships which they personally have with any party or its counsel, or with any individual whom they have been told will be a witness. They [should] *shall* also disclose any such relationship involving members of their families or their current employers, partners or business associates.

(b) Persons who are requested to accept appointment as arbitrators [should] *shall* make a reasonable effort to inform themselves of any interests or relationships described in Paragraph (a) above.

(c) & (d) No change.

Rule 619. General Provision Governing Subpoenas, Production of Documents, etc.

(a) No changes.

(b) Document Production and Information Exchange.

(1) Any party may serve a written request for information or documents (''information request'') upon another party twenty (20) business days or more after service of the Statement of Claim by the Director of Arbitration or upon filing of the Answer, whichever is earlier. The requesting party shall serve the information request on all parties [and file a copy with the Director of Arbitration]. The parties shall endeavor to resolve disputes regarding an information request prior to serving any objection to the request. Such efforts shall be set forth in the objection.

(2) Unless a greater time is allowed by the requesting party, information requests shall be satisfied or objected to within thirty (30) calendar days from the date of service. Any objection to an information request shall be served by the objecting party on all parties [and filed with the Director of Arbitration].

(3) Any response to objections to an information request shall be served on all parties [and filed with the Director of Arbitration] within ten (10) calendar days of receipt to the objection.

(4) Upon the written request of a party whose information request is unsatisfied, the matter will be referred by the Director of Arbitration to either a pre-hearing conference under

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

paragraph (d) of this section or to a selected arbitrator under paragraph (e) of this section. *Copies of the request, objections to the request and response to the objections, if any, must accompany the request to the Director of Arbitration.*

(c) through (g) No Changes

* * * * *

Voluntary Supplemental Procedures for Selecting Arbitrators

(a) No changes.

(b) Random List Selection

1. The Number and Type of Arbitrators

(i) Claims up to $[10]*25*,000. One public arbitrator will decide claims up to $[10]*25*,000 (not including costs and interest).

(ii) Claims above $[10]*25*,000 or where no dollar amount is claimed or disclosed. Three arbitrators will decide claims above $[10]25,000 (not including costs and interest) or where no dollar amount is claimed or disclosed. The arbitration panel shall consist of a majority of public arbitrators, unless the customer or non-member requests a majority from the securities industry.

(iii) No changes.

2. through 5. No changes.

(c) No changes.

* * * * *

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 NYSE 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 NYSE 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 NYSE represents that the proposed rule change is intended to:

- Provide greater transparency with respect to challenges for cause by including the cause standard in the rules (NYSE Rule 609).
- Emphasize that all arbitrator disclosures are mandatory (NYSE Rule 610).
- Reduce paperwork by eliminating the requirement that parties in arbitration file with the Director of Arbitration copies of all requests for information, objections to requests and responses to objections until such time as a party requests a pre-hearing conference (NYSE Rule 619).
- Conform the Voluntary Supplemental Procedures for Selecting Arbitrators Pilot Program to the recently approved change in Simplified Arbitration (NYSE Rule 601) by increasing the ceiling from $10,000 to $25,000 for a single arbitrator to be selected to decide an arbitration claim.

The NYSE represents that the proposed amendments to NYSE Rules 609 and 610 are consistent with the recommendations of Professor Michael A. Perino as contained in his Report to the Securities and Exchange Commission Regarding Arbitrator Conflict Disclosure Requirements in NASD and NYSE Securities Arbitrations (''Perino Report''). Commissioned by the then-Chairman of the Commission to assess the adequacy of current NASD and NYSE disclosure requirements, the Perino Report concluded that current SRO conflict disclosure rules are adequate. However, in order to provide additional assurance to investors that arbitrators are in fact neutral and impartial the Perino Report proposed four recommendations. The proposed amendments to NYSE Rules 609 and 610 are consistent with two of the Perino Report's recommendations that have been approved by the Securities Industry Conference on Arbitration (''SICA''). The other two recommendations are currently under consideration by SICA. The proposed amendment to NYSE Rule 609 codifies existing policy and provides greater transparency with respect to challenges for cause by including the cause standard in the rules. The proposed amendment to NYSE Rule 610 emphasizes that all arbitrator disclosures are mandatory and the NYSE represents that it is consistent with current self-regulatory organization interpretation of the rule.

NYSE represents that the proposed amendment to NYSE Rule 619 is intended to reduce the volume of paperwork the Exchange receives from parties by eliminating the requirement that all information requests, objections to the requests and responses be filed with the Director of Arbitration. Under the proposed amended rule, the parties will only be required to file the aforementioned documents at the time they request a pre-hearing conference to resolve a discovery dispute. NYSE represents that the proposed amendment is consistent with an amendment to the Uniform Code of Arbitration adopted by SICA.

The proposed amendment to the Voluntary Supplemental Procedures for Selecting Arbitrators will increase the ceiling from $10,000 to $25,000 for a single arbitrator to be selected to decide an arbitration claim. This amendment is consistent with the amendment to Simplified Arbitration (NYSE Rule 601) recently approved by the Commission.[5]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of section 6(b)(5),[7] in particular, in that it promotes just and equitable principles of trade by ensuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

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

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–894(f)(6) thereunder.[9] In addition, the NYSE requests that the proposed

[5] *See* Securities Exchange Act Release No. 47089 (December 23, 2002), 68 FR 139 (January 2, 2003) (SR–NYSE–2002–43).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

rule change become effective upon filing because:

i. The proposed amendment to NYSE Rule 609 codifies the Exchange's existing practice regarding challenges for cause and duplicates publicly available information in SICA's Arbitrator's Manual.

ii. The proposed amendment to NYSE Rule 610 codifies the Exchange's existing interpretation of NYSE Rule 610 and its practices regarding arbitrators' obligations to make a reasonable effort to inform themselves of any interests or relationships described in NYSE Rule 610(a) and to disclose such information.

iii. The proposed amendments to NYSE Rule 619 will eliminate the need for parties to file information requests and responses with the Director of Arbitration since those documents do not require action by arbitrators.

iv. The proposed amendment to the Voluntary Supplemental Procedures for Selecting Arbitrators will conform the threshold for single arbitrator cases under the Supplemental Procedures with the higher threshold approved by the Commission in NYSE Rule 601 (Simplified Arbitration).

A proposed rule change filed under Rule 19b–4(f)(6)[10] does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The NYSE has requested that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b–4(f)(6)(iii).[11] The Commission believes waiving the 30-day operative date is consistent with the protection of investors and the public interest. For this reason, the Commission has determined to make the proposed rule change operative as of the date of this notice.[12]

At any time within 60 days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if its appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

[10] *Id.*

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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).

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 NYSE. All submissions should refer to SR–NYSE–2003–15 and should be submitted by June 23, 2003.

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

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–13685 Filed 5–30–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47926; File No. SR–PCX–2003–19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Exchange Fees and Charges

May 23, 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 April 29, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 22, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to amend its schedule of Fees and Charges by changing the following fees for options: the trade match fees and the shortfall fee. The text of the proposed rule change is available at the principal office of 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 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 Exchange 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 the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange is proposing to make changes to its Schedule of Fees and Charges with respect to the following fees effective for the May 2003 trading month: trade match fees and shortfall fees. Other than the fees listed herein, the Exchange does not seek to make any other changes to its fee schedule.

Trade Match Terminal and Table Fees. The Exchange currently charges ''trade match'' terminal and table fees in order to allow the Member Firms to use the PCX facilities to verify matched trades between buyers and sellers. Currently the Exchange charges a trade match terminal fee of $80 per month per terminal and trade match table fees in the amount of $120 per month for a six-foot table, $80 per month for a four-foot table, and $60 per month for a shared six-foot table.

With technological advances, the PCX is now able to offer Member Firms more flexibility in determining the location where they perform the trade match function. The Exchange will continue to offer Member Firms the opportunity to

[3] Amendment No. 1 replaced the original Form 19b–4 in its entirety.