

the requirements of Section 6 and the rules and regulations thereunder.⁵ The Commission believes that the proposal is consistent with the provisions of Section 6(c)(3)(B) of the Act⁶ providing that an exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange and that an exchange may bar a natural person from becoming a member or person associated with a member, if such person does not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange.

The Commission believes the Exchange has developed standards to help ensure that persons associated with Exchange members and member organizations as Supervisory Analysts are appropriately qualified and experienced to approve communications with the public. The Exchange represents that requiring three years experience as a "securities analyst" is too restrictive in light of the current business environment. Because the role of Supervisory analyst has changed to consist primarily of reviewing research reports prepared by others, as opposed to, the preparation of research reports, "appropriate experience" need not be limited to exclusively experience as a "securities analyst." The Commission believes that expanding the definition of industry experience as set forth in the proposal is consistent with the requirements of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-NYSE-98-44) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41018; File No. SR-PCX-98-30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Exchange, Inc. Relating to Telephone Use on the Options Floor

February 3, 1999.

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 June 26, 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 November 12, 1998, 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 and Amendment No. 1 to 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 adopt a new rule setting forth procedures and restrictions regarding telephone use on the Options Trading Floor ("Options Floor"). 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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to establish rules and procedures for telephone use on the Options Floor. Proposed Rule 6.2(h) sets guidelines for the use of telephones by Market Makers, Lead Market Makers ("LMMs"), Floor Brokers, Clerks, and Floor Managers.

The PCX is proposing to establish a formal rule requiring that Members and Member Firms must register, prior to use, any new telephone to be used on the Options Floor. Proposed Rule 6.2(h) states that each phone registered with the Exchange must be registered by category of user (Market Maker, LMM, Floor Broker, Clerk or Manager). If there is a change in the category of any user, the phone must be re-registered with the Exchange. At the time of registration, Members and Member Firm representatives must sign a statement indicating that they are aware of and understand the rules governing the use of telephones on the Options Floor.

The Rule further states that no Member or Member Firm may employ any alternative communication device, including but not limited to e-mail, on the Options Floor without the prior approval of the Options Floor Trading Committee.

Capacity and Functionality

The proposed Rule specifies the capacity and functionality permitted for the use of telephones on the Options Floor. The Rule states specifically that no wireless telephone used on the Options Floor may have an output greater than one watt and that no person on the Options Floor may use any device for the purpose of maintaining an open line of continuous communication whereby a person not located in the trading crowd may continuously monitor the activities in the trading crowd. This prohibition covers intercoms, walkie-talkies and any similar devices. The rule does permit speed-dialing features for Member phones.

Members and Member Firm Employees

The proposed Rule states specific guidelines for each category of user on the Options Floor, as follows:

Market Makers and LMMs

The proposed Rule states that Market Makers and LMMs may use their own cellular and cordless phones to place calls to any person at any location (whether on or off the Options Floor).

efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(c)(3)(B).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 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 November 10, 1998 ("Amendment No. 1"). The substance of Amendment No. 1 is incorporated into this notice.

The Rule also states that Market Makers and LMMs may use the Pit Rep and LMM telephones located at the trading posts only for the purpose of marketing option issues, responding to customer inquiries, or otherwise conducting Exchange business. No person other than a Pit Rep, Market Maker⁴ or an LMM may use the Pit Rep or LMM phones. This is to ensure that phones will be accessible for customer inquiries and marketing.

The Rule further states that Market Makers located off the Options Floor may not place an order by calling a Floor Broker who is present in a trading crowd. Market Makers located off the Options Floor may not otherwise place an order by calling the Pit Rep or LMM phone in the trading crowd. The Rule also states that any telephonic order entered from the Options Floor must be placed with a person located in a member firm booth. This will facilitate adequate surveillance of telephonic orders and ensure that there is a record of the order in the event that a problem arise in connection with the order. It is also consistent with Rule 6.85, Commentary .03, which requires verbal orders from Market Makers to be written up outside of the trading crowd.⁵

Floor Brokers

The Rule states that Floor Brokers may use cellular and cordless phones, but only to communicate with persons located on the Options Floor. These phones may not include a call forwarding feature. This Rule codifies long-standing PCX policies regarding phone use by Floor Brokers which are designed to ensure that orders are entered in a manner that allows for routine monitoring and surveillance by the Exchange. In addition, the Rules states that headset are permitted for Floor Brokers, but if the Exchange determines that a Floor Broker is maintaining a continuous open line through the use of a headset, the Floor Broker will be prohibited from future use of any headset for a length of time to be determined by the Exchange.

The Rule further states that Floor Brokers may receive orders over their phones from any persons located on the Options Floor. Floor Brokers who receive telephonic orders while in the trading crowd must step outside of the crowd, write up an order ticket and time

stamp it before representing the order in the crowd. This is consistent with Rule 6.85, Commentary .03, which states that when a Floor Broker receives a verbal order from a Market Maker, the Floor Broker shall immediately prepare an order ticket from outside the trading crowd and time-stamp it.⁶

Any telephonic order entered from off the Options Floor must be placed with a person located in a member firm booth. Further, the Rule prohibits the Floor Brokers from using the Pit Rep or LMM telephones under any circumstances. This is to ensure that telephones are available for marketing option issues, responding to customer inquiries, or otherwise conducting Exchange business relating to Market Makers and Lead Market Makers.

Clerks

The proposed Rule states that Floor Broker Clerks and Stock Executions Clerks are subject to the same terms and conditions on telephone use as Floor Brokers and that Market Maker Clerks are subject to the same terms and conditions on telephone use as Market Makers. The Rule further states that the Options Floor Trading Committee reserves the right to prohibit clerks from using cellular or cordless phones on the floor at any time that it is necessary due to electronic interference problems⁷ or capacity problems⁸ resulting from the number of such phones then in use on the Options Floor. In such circumstances, the Committee will first consider restricting the use of such phones by Market Maker Clerks, then by Stock Execution Clerks, and then finally, by Floor Broker Clerks.

Floor Managers

Proposed Rule 6.2(h) states that Member Firm Floor Managers may use any telephone, including any cellular or cordless phones, for any business purpose relating to their management responsibilities.

General Access Phones, Telephone Records, and Exchange Liability

Proposed Rule 6.2(h) states that phones located outside the trading areas

⁶ *Id.*

⁷ The term "electronic interference" refers to a situation where, even though there are talk paths available, a user cannot get a good signal because of interference with monitors, static, or a bay station not working correctly. Amendment No. 1, *supra* note 3.

⁸ The Term "capacity problems" is used to describe a situation where a user cannot get a signal because no talk path is available on a bay station. Currently, there are 96 talk paths available. If all 96 talk paths are being used, the 97th user will be unable to get a signal because all talk paths are being used. Amendment No. 1 *supra* note 3.

may be used by any Member, Clerk, or Member Firm Floor Manager to communicate with persons on the Options Floor. The rule also states that Members must maintain their cellular or cordless telephone records, including logs of calls placed, for a period of not less than one year and the Exchange reserves the right to inspect such records pursuant to Rule 10.2.

Finally, proposed Rule 6.2(h) states that the Exchange assumes no liability to Members or Member Firms due to conflicts between phones in use on the Options Floor or due to electronic interference problems resulting from the use of telephones on the Options Floor.

Minor Rule Plan

Currently the PCX Minor Rule Plan includes as a minor rule violation, the unauthorized use of telephones located in the trading post areas.⁹ The PCX is proposing to change the language in the rule to refer to the proposed rule on telephone use on the Option Trading Floor (Rule 6.2(h)). Specifically, the provision will now state: Floor Member or Member Firm employee violated rules on telephones on the Options Floor. In addition, the PCX is proposing to increase the fine amount for a third violation from \$750.00 to \$1,000.00 to better reflect the seriousness of a third violation within two years.

2. Statutory Basis

The proposal is consistent with Section 6(b)¹⁰ of the Act, in general, and Section 6(b)(5)¹¹ of the Act, in particular, in that it is designed to regulate communications to and from the Exchange's Options Trading Floor in a manner that promote just and equitable principles of trade and protects investors and the public interest.

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

No written comments were either solicited or received.

⁹ See PCX Rule 10.13.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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

Within 35 days of the 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 self-regulatory organization consents, the Commission will:

(A) by order approve the 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, 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 will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR-PCX-98-30 and should be submitted by March 9, 1999.

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

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Southwest Georgia Regional Airport, Albany, GA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Southwest Georgia Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 18, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Federal Aviation Administration, DOT, 1701 Columbia Avenue, Suite 2-260, College Park, Georgia 30337-2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Richard C. Howell, Airport Director of the Albany-Dougherty County Aviation Commission (ADCAA) at the following address: 3905 Newton Road, Albany, Georgia 31707-3460.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the ADCAA under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Larry Clark, Program Manager, Atlanta Airports District Office 1701 Columbia Avenue, Suite 2-260, College Park, Georgia 30337-2747, (404) 305-7144.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Southwest Georgia Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 4, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by ADCAA was substantially

complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 29, 1999.

The following is a brief overview of the application.

PFC Application No.: 98-02-C-00-ABY.

Level of the proposed PFC: \$3.00.

Proposed charge effective date: May 1, 1999.

Proposed charge expiration date: December 17, 2004.

Total estimated PFC revenue: \$798,449.

Brief description of proposed project(s):

1. ANTN Digital Training System
2. Rehabilitate General Aviation Apron
3. Airfield Perimeter Fencing
4. Airfield Perimeter fencing—Road Widening Project
5. Bunker Gear for ARFF Personnel
6. Telecommunication Device for the Deaf
7. ADA Signage—Terminal Building
8. Commuter Passenger Boarding Bridge
9. Local Share Reimbursement for:
 - Lighting Vault
 - ARFF Facility
 - Rehabilitate Taxiway Lights (TXY A)
 - ARFF Vehicle
 - Rehabilitate Runway Lights (RWY 4/22)
 - Rehabilitate Taxiway A (Partial)
 - Airfield Signage
 - Rehabilitate Beacon
 - Rehabilitate TXY A (Partial) and TXY C
 - Rehabilitate Runway Lights (RWY 16/34)
 - Rehabilitate Taxiway Lights (TXY B, C, and E)
 - Expand and Rehabilitate Apron (Design only)
 - Rehabilitate Taxiways D and E (Design only)
 - Master Plan Update
 - Rehabilitate Runway 4/22 (Design only)
 - Rehabilitate Runway 4/22
 - Rehabilitate Runway 16/34

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 Air Taxi/Commercial Operators

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application, in person at the ADCAA.

¹² 17 CFR 200.30-3(a)(12).