

Commission believes that the proposal should provide to DCC margin in an amount that will assist DCC in meeting its obligation to safeguard securities and funds.

Currently, DCC has operated its new margining system for only nine months. Therefore, the Commission believes that it is appropriate to extend temporary approval of the proposal in order that the Commission and DCC will have opportunity to further monitor the effectiveness of the new system in practice. Accordingly, the Commission is temporarily approving the proposed rule change through March 31, 1999. During this temporary approval period, upon the Commission's request DCC will submit reports detailing its analysis of its overnight repo margining system.

DCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because accelerated approval will allow DCC to continued to use its overnight repo margining procedures without interruption when the current temporary approval period expires on March 31, 1998.

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 in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DCC. All submissions should refer to the File No. SR-DCC-98-03 and should be submitted by April 29, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the

proposed rule change (File No. SR-DCC-98-03) be, and hereby is, approved through March 31, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39825; File No. SR-PCX-98-13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc., Relating to a Supervisory Specialist Pilot Program

April 1, 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 March 3, 1998, 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 self-regulatory organization. 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

PCX is proposing to adopt a pilot program, effective for one year, under which PCX specialist firms may operate two specialist posts based upon one Exchange membership.³ 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 self-regulatory organization 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 self-regulatory organization 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

In an effort to streamline the way business is conducted on the Equities Floors of the PCX, and to provide Specialist Firms with greater control over the management and costs of their operations, the Exchange is proposing to adopt the Supervisory Specialist Pilot Program ("Program"). The Exchange's Executive Committee will permit qualified Specialist Firms to participate in the Program during the pilot, which is set to expire one year from the date of SEC approval. Throughout the course of the Program, the Executive Committee will seek to assure an orderly transition of Specialist Firms into the Program. The Program will apply to trading on the Equities Floors only and will not apply to trading on the Options Floor.

Under the Program, a Specialist Firm may operate two specialist posts based upon one Exchange membership, provided that both posts will be staffed by Specialists who have been qualified by the Exchange as Registered Specialists under the rules of the Exchange.⁴ The Program will permit one specialist post to be staffed by a Member who is registered as the supervising specialist (the "Supervisory Specialist"), while the other post is staffed by an Associated Person of the Specialist Firm who is otherwise qualified to act as a Registered Specialist (the "Associate Specialist"). Under the Program, the Supervisory Specialist will act as supervising specialist over the Associate Specialist.

Under the Program, both the Supervisory Specialist and the Associate Specialist will be obligated to pay the dues, fees and charges as specified in the Exchange's Schedule of Fees and Charges for Exchange Services.

Specialist Firms may apply to participate in the Program by submitting an application to the Executive Committee. In determining whether to approve an application, the Executive Committee will take into account certain relevant factors including those specified below. The Executive

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission approved, on an accelerated basis, the Exchange's companion filing of a proposed rule change for a temporary, ninety day, Supervisory Specialist Pilot Program. See Securities Exchange Act Release No. 34-39787 (March 24, 1998).

⁴ See e.g., PCX Rule 5.27.

Committee may, at its discretion, approve a Specialist Firm to participate in the Program based on the following primary factors: the applicant Specialist Firm's current cost of operating its specialist posts, including the rental cost (if any) of each seat; whether the value and revenue stream from existing specialist posts will be retained if the application is approved; and whether the long-term viability of the business and trading volume of a specialist post will be retained if the application is approved. The Executive Committee will also take into account the following secondary factors in reviewing an application: the past experience of individuals who are proposed to serve as Specialists under the Program; recent specialist performance ratings of individuals who are proposed to serve as Specialists under the Program (these ratings should include evaluation scores for the last eight quarters, if they are available);⁵ the disciplinary history of the Specialist Firm and the individuals who are proposed to serve as Specialists under the Program; and other relevant factors that the applicant wishes the Executive Committee to consider.

The Executive Committee will oversee the implementation of the Program and will study the impact of the Program on the quality of markets at specialist posts operating under the Program. Based on this study, the Executive Committee may adopt more specific standards and procedures for operating the Program. The Executive Committee is not required to approve any number of applicants, and there are no limits on the number of applicants who may be approved under the Program. Applicants, however, are restricted to Exchange Members with seats on the Equity floor, and no more than two specialist posts may be operated per membership.⁶

Under the Program, a Specialist Firm may operate two trading posts based upon one membership, provided that the following conditions are met:

a. The two trading posts must be contiguous.

b. Each post must be operated by a person who meets all of the qualifications of a Registered Specialist. Specifically, each Associate Specialist must achieve a passing grade of at least 80% on a written examination for Registered Specialists prepared by the Exchange. This is the same examination and the same passing score required for all Registered Specialists, as provided in PCX Rule 5.27(c)(ii).

c. The Supervisory Specialist must be registered with the Exchange as a "Member" as defined in PCX Rule 1.1(i). The Associate Specialist must be an "Associated Person" of the Specialist Firm as defined in PCX Rule 1.1(d) and must meet the requirements of PCX Rule 5.27(b)(3) ("Associate Specialist Defined").

d. The Supervisory Specialist will act as supervising specialist over the Associate Specialist.

e. The performance of the Supervising Specialist and the Associate Specialist will be evaluated individually pursuant to PCX Rule 5.37 ("Evaluation of Specialist Performance").

Under the Program, an Associate Specialist will be deemed to be a Registered Specialist for all purposes under the rules of the Exchange, unless otherwise specified herein.⁷

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)⁸ of the Act, in general, and Section 6(b)(5),⁹ in particular, in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade.

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.

⁷ In addition to the Exchange requirements as discussed above, the Associate Specialist (as well as the Supervisory Specialist) must comply with all applicable federal securities law requirements. See e.g., Exchange Act section 15 (requiring broker-dealers to register with the Commission).

⁸ 15 U.S.C. 78f(b).

⁹ 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 date of 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 such 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, NW., Washington, DC 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 in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-98-13 and should be submitted by April 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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¹⁰ 17 CFR 200.30-3(a)(12).

⁵ Supervisory and Associate Specialists will be evaluated pursuant to the criteria set forth in PCX Rule 5.37(a). The five separate measures of performance are (1) Executions, (2) Specialist Evaluation Questionnaire Survey, (3) Book Display Time, (4) Post 1 P.M. Parameters and (5) Quote Performance.

⁶ Telephone conversation between Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, and Marc McKayle, Attorney, Division of Market Regulation, Commission (March 23, 1998).