



DIVISION OF
MARKET REGULATION

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

February 10, 2005

VIA FACSIMILE AND U.S. MAIL

Mai S. Shiver, Esq.
Director of Regulatory Policy
Pacific Exchange, Inc.
115 Sansome Street
San Francisco, CA 94104

Re: Exemption from Rules 11Ac1-1, 11Ac1-2, and 11Ac1-4

Dear Ms. Shiver:

By letter dated December 28, 2004, the Pacific Exchange, Inc. ("PCX"), through its wholly owned subsidiary PCX Equities, Inc., requested that the Securities and Exchange Commission ("Commission") grant an exemption from Rules 11Ac1-1, 11Ac1-2, and 11Ac1-4¹ under the Securities Exchange Act of 1934 that would permit Archipelago Exchange, a facility of PCX ("ArcaEx"), ETP Holders of ArcaEx, and vendors that disseminate ArcaEx quotation information to enter, execute, and report quotations in exchange-listed securities and Nasdaq National Market and SmallCap securities in increments less than \$0.01 per share, although such quotations would be disseminated in rounded, penny increments without a rounding identifier. Your request would expand the existing similar exemption granted to PCX with respect to securities priced less than \$1.00 per share.²

The Commission hereby grants this exemption. The Commission believes that doing so is consistent with the public interest, the protection of investors, and the removal of impediments to and perfection of the mechanism of a national market system because this action should further competitive equality between PCX and other national securities exchanges to which similar exemptive relief has been granted by the Commission.³ This

¹ 17 CFR 240.11Ac1-1, 240.11Ac1-2, and 240.11Ac1-4.

² See letter to Mai S. Shiver, Director of Regulatory Policy, PCX, from David S. Shillman, Associate Director, Division of Market Regulation, Commission, dated September 24, 2004 ("Initial Exemption Letter").

³ See, e.g., letter to James C. Yong, Senior Vice President and General Counsel, National Stock Exchange, from David S. Shillman, Associate Director, Division of Market Regulation, Commission, dated June 30, 2004 (extending exemption

exemption is expressly contingent on PCX's continuing compliance with the conditions and representations detailed by PCX in its incoming letter and the Initial Exemption Letter.

This exemption is temporary and will expire on June 30, 2005. Depending on any action that the Commission takes with respect to proposed Regulation NMS prior to June 30, 2005, however, the Commission may determine to modify, withdraw, or extend this exemption.⁴

For the Commission, by the Division of Market
Regulation, pursuant to delegated authority,⁵



David S. Shillman
Associate Director

from Rules 11Ac1-1, 11Ac1-2, and 11Ac1-4 until June 30, 2005); letter to Ellen J. Neely, Senior Vice President and General Counsel, Chicago Stock Exchange, from David S. Shillman, Associate Director, Division of Market Regulation, Commission, dated July 15, 2004 (same).

⁴ On December 16, 2004, the Commission repropoed Regulation NMS for public comment. See Securities Exchange Act Release No. 50870 (December 16, 2004), 69 FR 77424 (December 27, 2004). Reproposed Rule 612 of Regulation NMS would, among other things, prohibit a national securities exchange, national securities association, alternative trading system, vendor, or broker-dealer from displaying, ranking, or accepting a bid, offer, order, or indication of interest in any NMS stock priced in a per-share increment less than \$0.01. It would permit sub-penny quotations below \$1.00, but only to four decimal places. Granting this exemption in no way prejudices or determines what actions the Commission may take with respect to any part of the Regulation NMS proposal.

⁵ 17 CFR 240.11Ac1-1(e), 17 CFR 200.30-3(a)(28); 17 CFR 240.11Ac1-2(g), 17 CFR 200.30-3(a)(36); 17 CFR 240.11Ac-1-4(d), 17 CFR 200.30(a)(61).