

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49487; File No. SR-PCX-2004-05)

March 26, 2004

Self-Regulatory Organizations; Pacific Exchange, Inc; Order Approving Proposed Rule Change Imposing a Connectivity Fee Applicable to Non-members that Maintain a Connectivity Line with the Exchange

On January 28, 2004, the Pacific Exchange, Inc. (“PCX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Floor, Market Maker and Remote Market Maker portion of its Schedule of Fees and Charges (“Schedule”) in order to create a connectivity fee of \$300 per line per month that would be applicable to non-members that maintain a connectivity line with the Exchange.³ The proposed rule change was published for comment in the Federal Register on February 24, 2004.⁴ The Commission received no comment letters on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁵ and, particularly, Section 6(b)(4) of the Act.⁶ The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The PCX recently implemented this charge for its members. See Securities Exchange Act Release No. 48970 (December 22, 2003), 68 FR 75306 (December 30, 2003).

⁴ See Securities Exchange Act Release No. 49263 (February 17, 2004), 69 FR 8509.

⁵ In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(4).

believes that amending the Exchange's rule to impose such a connectivity fee should promote equitable allocation of fees and other charges among Exchange members and other persons using the Exchange's facilities.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-PCX-2004-05) is approved.

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

Margaret H. McFarland
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).