



RULE
ADOPTION
NOTICE

RAN-02-36
December 2, 2002

**TO: All PCX Members, Member Organizations,
ETP Holders and Sponsored Participants**

FROM: Department of Regulatory Policy

**SUBJECT: PCX/PCXE Arbitration Rules
(File No. SR-PCX-2002-71)**

On November 7, 2002, the Exchange filed a proposed rule change with the Securities and Exchange Commission regarding changes to PCX and PCXE Arbitration Rule 12. The proposed changes would require industry parties in arbitration to waive application of contested California arbitrator disclosure standards upon the request of customers or, in employment discrimination cases, upon the request of associated persons. The proposed rule changes were granted accelerated approval on 11/21/02.

The following is the text of the new rule. Questions regarding this notice may be directed to Betsy James at (415) 393-4151.

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EXHIBIT A

Text of the Rule Change:¹

**Rules of the Board of Governors
of the
Pacific Exchange, Inc.**

**Rule 12
Arbitration
Matters Subject to Arbitration**

Rule 12.1(a) – (g) – No change.

¹ New text is underscored; deleted text is in brackets.

Commentary:

.01 No change.

.02 It may be deemed conduct inconsistent with just and equitable principles of trade for a member, a member organization or a person associated with a member or member organization to fail to submit to arbitration on demand under the provisions of this Rule[.]; or to fail to waive the California Rules of Court, Division VI of the Appendix, entitled “Ethics Standards for Neutral Arbitrators in Contractual Arbitration” (the “California Standards”), if all the parties in the case who are customers have waived application of the California Standards in that case; or to fail to waive the California Standards if all associated persons with a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute have waived application of the California Standards in that case; or to fail to appear or to provide any document in his or its possession or control as directed pursuant to the provisions of this Rule; or to fail to honor an award of arbitrators properly rendered pursuant to the provisions of this Rule where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

.03 – No change.

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EXHIBIT B

Text of the Proposed Rule Change:

PCX Equities, Inc.

**Rule 12
Arbitration**

MATTERS SUBJECT TO ARBITRATION

Rule 12.1 – No change.

Rule 12.2 (a) – (g) – No change.

(h) It may be deemed conduct inconsistent with just and equitable principles of trade for an ETP Holder or a person associated with an ETP Holder to fail to submit to arbitration on demand under the provisions of this Rule[,]; or to fail to waive the California Rules of Court, Division VI of the Appendix, entitled “Ethics Standards for Neutral Arbitrators in Contractual Arbitration” (the “California Standards”), if all the parties in the case who are customers have waived application of the California Standards in that case; or to fail to waive the California Standards if all associated persons with a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute have waived application of the California Standards in that case; or to fail to appear or to provide any document in his or her or its possession or control as directed pursuant to the provisions of this Rule or to fail to honor an award of arbitrators properly rendered pursuant to the provisions of this Rule where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

(i) – (j) – No change.