



RULE
ADOPTION
NOTICE

RAN-03-05
February 26, 2003

TO: All PCX Members and Member Organizations

FROM: Department of Regulatory Policy

**SUBJECT: Maintenance of Books and Records
(File No. SR-PCX-2002-26)**

On September 30, 2002, the Securities and Exchange Commission granted an Order approving a proposed rule change and Amendment Nos. 1 and 2 by the Exchange relating to rules governing the maintenance of books and records. The purpose of the rule change is to codify the existing obligations of PCX members to keep and preserve books and records, and to maintain daily position statements and error account information.

The following is the text of the rule change and Amendment Nos. 1 and 2. Questions regarding this bulletin may be directed to Mai Shiver at (415) 393-4266.

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Exhibit A

PACIFIC EXCHANGE, INC.

RULES OF THE BOARD OF GOVERNORS

Text of the Rule Change:¹

Books and Records

Rule 4.20(a) ~~Reserved~~. Each Member and Member Organization must make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Securities Exchange Act of 1934 and the rules and regulations thereunder (including any interpretation relating thereto) as though such Members or Member Organization were a broker or dealer registered with the SEC pursuant to Section 15 of the Exchange Act. No Member or Member Organization may refuse to make available to the Exchange such books, records or other information as may be called for under the Rules or as may be requested in connection with an Exchange investigation.

¹ New text is underscored.

Commentary:

.01 The following Exchange Rules contain specific requirements with regard to the maintenance, retention and furnishing of books, records and other information: Rules 1.16, 2.1, 2.4, 2.6, 2.7, 2.8, 2.10, 2.11, 2.12, 2.15, 2.18, 4.9, 4.10, 4.20, 4.21, 4.25, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19, 6.39, 6.41, 6.46, 6.68, 6.69, 9.2, 9.17 and 9.18. The foregoing list is not intended to be exhaustive and Members and Member Organizations must comply with applicable record keeping and reporting requirements regardless of whether they are listed here.

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Daily Position Statements

Rule 4.20(b) Each Member and Member Organization must receive daily position statements with respect to securities held by the Options Clearing Corporation or any member thereof, the DTCC or any similar clearing organization and must reconcile securities and money balances at least once per month by comparing those position statements against the Member or Member Organization's books and records. Each Member or Member Organization must promptly report any differences to the contra organization and make every effort to resolve the differences. A Member or Member Organization who processes transactions through the Member or Member Organization's clearing firm's clearance account may utilize those clearance account records to satisfy this record keeping requirement provided that: (i) the Member Organization clearing firm complies with the provisions of SEC Rules 17a-3(b)(2) and 17a-4(i); (ii) the Member or Member Organization maintains those clearance account records pertaining to the daily activity and total position in each series of options; and (iii) the Member or Member Organization reconciles any discrepancies between the clearance account records and any financial reports that the Member or Member Organization is required to maintain pursuant to Rule 4.20(a). Each Member and Member Organization must maintain reports that evidence reconciliation for at least six years, the first two years in an easily accessible place.

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Error Accounts

4.21(a) Each Member or Member Organization [whose principal business is] which conducts business as a floor broker on the Exchange and who is not self-clearing must establish and maintain an account with a clearing member of the Exchange, for the sole purpose of carrying positions resulting from bona fide errors made in the course of its floor brokerage business. With respect to options floor brokers only, such an account for option transactions must be maintained with a clearing member [an entity] that is also a member of the Options Clearing Corporation.

(b) Each such Member or Member Organization which conducts business as a floor broker must make available to the Exchange, upon request, accurate and complete records of all trades cleared in such Member or Member Organization's error account. These records must include the audit trail data elements prescribed below:

- (1) name or identifying symbol of the security;
- (2) number of shares or quantity of security;
- (3) transaction price;
- (4) time of trade execution;
- (5) executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract;
- (6) executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract;
- (7) clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract;
- (8) clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract;
- (9) designation of whether the account for which the order was executed was that of a Member or Member Organization;
- (10) the nature and amount of the error;
- (11) the Member or Member Organization that cleared the error trade on the Member's or Member Organization's behalf;
- (12) an explanation of the means by which the Member or Member Organization resolved the error;
- (13) the aggregate amount of liability that the Member or Member Organization incurred and: (i) had outstanding as of the time each such error trade entry was recorded or (ii) had cleared by other Members or Member Organizations.

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