



RULE
ADOPTION
NOTICE

RAN-04-37
August 25, 2004

**TO: PCX OTP Holders and OTP Firms
ETP Holders and Sponsored Participants**

FROM: Department of Regulatory Policy

**SUBJECT: Arca Processing of Incoming ITS Commitments
(File No. SR-PCX-2004-67)**

On August 13, 2004, the Pacific Exchange, Inc. filed the subject rule filing with the Securities and Exchange Commission in order to amend its rules regarding the processing of incoming ITS Commitments. The rule, attached hereto as Exhibit A, is effective upon filing.

Questions regarding this bulletin may be directed to Mai Shiver at (415) 393-4266.

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EXHIBIT A

Text of the Proposed Rule Change:¹

Rule 7 Equities Trading

Section 5 – Intermarket Trading System Plan

Rule 7.55(a) - No Change.

(b) *Provisions of the Plan.* The Corporation has agreed to comply to the best of its ability, and absent reasonable justification or excuse, to enforce compliance by its ETP Holders with the provision of the Plan. In this connection, the following shall apply:

(1) – (3) – No change.

(4) The ETP Holder who made the bid or offer which is sought by a commitment to trade received through ITS shall accept such commitment to trade, via the facilities of the Corporation, up to the amount of the bid or offer if the bid or offer is still available

¹ New text is underscored. Deletions are bracketed.

when the commitment to trade is received by such ETP Holder, via the facilities of the Corporation, unless acceptance is precluded by the Rules of the Corporation. In the event that the bid or offer which is sought by a commitment to trade is no longer available through the facilities of the Corporation when the commitment is received, but a new bid or offer is available through the facilities of the Corporation which would enable the commitment to trade to be executed at a price which is more favorable than the price specified in such commitment, then the ETP Holder who made the bid or offer shall accept, via the facilities of the Corporation, such commitment at the price, and up to the amount of, the new bid or offer, unless acceptance is precluded by the Rules of the Corporation. An incoming commitment received during the time a trade-through complaint against the away market is outstanding is presumed to relate to the outstanding ITS complaint. Such incoming commitment will be matched with the bid or offer traded through at the price of the bid or offer residing in the ArcaEx book. The presumption in this rule shall have no bearing on the resolution of the ITS complaint.

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