



RULE
ADOPTION
NOTICE

RAN-04-44
September 29, 2004

TO: All OTP Holders and OTP Firms

FROM: Department of Regulatory Policy

SUBJECT: PCX Sanctioning Guidelines
(File No. SR-PCX-2004-45)

On May 17, 2004, the Pacific Exchange, Inc. (“PCX” or “Exchange”) filed with the Securities and Exchange Commission a proposal to amend the PCX sanctioning guidelines to more effectively enforce compliance with the Exchange’s Financial and Operational Combined Uniform Single Reports filing requirement. The Exchange filed Amendment No. 1 to the proposed rule change on July 1, 2004. The Commission approved the proposed rule change on September 20, 2004.

The following is the text of the rule change. Questions regarding this bulletin may be directed to Tania J.C. Blanford at (415) 393-4107.

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EXHIBIT A

Text of the Proposed Rule Change:¹
Rules of the
Pacific Exchange, Inc.

Rule 10
Disciplinary Proceedings and Appeals

* * *

Pacific Exchange Sanctioning Guidelines

Rule 10.16(a) – (e) – No change.

(f) Specific Sanctioning Guidelines for Recordkeeping and Financial Requirements Rules.

(1) Financial Reports – PCX Rule 4.11(b)(1)

(A) Principal Considerations in Determining Sanctions.

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

(i) See list of Principal Considerations applicable to all violations as set forth in PCX Rule 10.16(d).

(B) Monetary Sanctions.

(i) First Disciplinary Action Fine of \$1,000 to \$5,000.

(ii) Second Disciplinary Action Fine of \$2,000 to \$10,000.

(iii) Subsequent Disciplinary Action Fine of \$3,000 to \$50,000.

(iv) To determine if an action is the first disciplinary action, consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. As indicated in the General Principles, as set forth in PCX Rule 10.16(b), recent acts of similar misconduct may be considered to be aggravating factors.

(C) Suspension, Expulsion, or Other Sanctions. For the first disciplinary action, consider a letter of caution to the named party. In egregious cases, consider suspending the named party with respect to any or all activities or functions for up to two years. In particularly egregious cases involving a pattern of misconduct, consider expelling the OTP Holder or OTP Firm, withdrawing approval of the responsible approved person, and/or permanently barring a named party from employment or association with any OTP Holder or OTP Firm.