



RULE
ADOPTION
NOTICE

RAN-05-38
May 25, 2005

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

FROM: Department of Regulatory Policy

**SUBJECT: Demutualization Follow Up
(File No. SR-PCX-2005-52)**

On April 12, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission a proposed rule change to make certain changes inadvertently omitted during demutualization. The Exchange filed Amendment Nos. 1 and 2 to the proposed rule change on May 5, 2005 and May 9, 2005, respectively. The proposed rules were effective upon filing and the Commission released the notice for publication on May 20, 2005.

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.

EXHIBIT 5

Text of the Proposed Rule Change:¹

Rules of the Pacific Exchange, Inc.

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Rule 1.1(a) – (v) – No Change.

Rule 1.1(w) – The term "Registered Employee" shall mean any person soliciting or conducting business in securities on behalf of an OTP Firm or OTP Holder [member organization].

Rule 1.1(x) – (bb) – No Change.

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¹

New text is underscored and deleted text is in brackets.

Rule 2.22(a) – Trading privileges conferred [by] on an OTP will terminate upon the occurrence of any one of the following conditions:

Rule 2.22(a)(1) - (5) – No Change.

Rule 2.22(b) - Obligations of Terminating OTP Holders and OTP Firms. Every OTP Firm, and any successor-in-interest thereto, and each OTP Holder whose trading privileges are terminated due to expulsion, suspension without reinstatement, death, declaration of incompetency, dissolution, [winding] winding up, or other cessation of business, must be current in all filings and payments of dues, fees and charges relating to that OTP, including, without limitation, filing fees and charges required by the Securities and Exchange Commission and the Securities Investor Protection Corporation. If any OTP Holder or OTP Firm, or any successor-in-interest thereto, fails to make such filings, or to pay such dues, fees and charges, the Secretary of the Exchange shall retain such jurisdiction over such former OTP Holder or OTP Firm to require such filings and collect such outstanding dues, fines and charges until such time as they have been filed and/or paid.

* * *

Rule 5.33(a) – (c)(2) – No Change.

Rule 5.33(c)(3) If the Submitting OTP Holder or OTP Firm has indicated an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO shall be automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Submitting OTP Holder or OTP Firm must indicate at the post the price at which the [member] OTP Holder or OTP Firm expects to trade. In these circumstances, the Submitting OTP Holder or OTP Firm may participate with all other FLEX-participating [members] OTP Holders or OTP Firms in attempting to improve or match the BBO during the BBO Improvement Interval. At the expiration of the BBO Improvement Interval, the Submitting OTP Holder or OTP Firm must promptly accept or reject the BBO(s).

Rule 5.33(c)(4) – (g) – No Change.

* * *

Rule 6.1(b)(34) *Trading Official*. A Trading Official will be an OTP holder registered with the Exchange for the purpose of exercising full trading privileges on the Exchange. Any OTP Holder designated as Trading Official will from time to time as provided in these rules have the ability to recommend and enforce rule and regulations relating to trading access, order, decorum, health, safety and welfare on the Options Trading Floor.

(35) – (40) – No Change.

(41) Exchange Official. A qualified Exchange employee or officer designated by the Chief Regulatory Officer or its designee.

(c) – (e) – No Change.

* * *

Rule 6.28(a) Whenever in the judgment of two [Options] Trading Officials or an Exchange Official, because of an influx of orders or other unusual conditions or circumstances, the interests of maintaining a fair and orderly market so requires, such [Options] Trading Officials or the Exchange Official may declare the market in one or more classes of option contracts to be "fast".

Rule 6.28(b) – (d) – No Change.

* * *

Rule 6.35(a) – (g)(1) – No Change.

Rule 6.35(g)(2) Except as provided in subsection (h), below, the following rules apply to the primary appointments of Remote Market Makers:

(A) Remote Market Makers on a single [seat] OTP may have up to 8 option issues within their primary appointments.

(B) Remote Market Makers with 2 [seats] OTPs may have up to 18 option issues within their primary appointments.

(C) Remote Market Makers with 3 [seats] OTPs may have up to 30 option issues within their primary appointments.

(D) Remote Market Makers with 4 [seats] OTPs may have up to 44 option issues within their primary appointments.

(E) Remote Market Makers with 5 [seats] OTPs may have up to 60 option issues within their primary appointments.

(F) Remote Market Makers with 6 [seats] OTPs may have up to 78 option issues within their primary appointments.

(G) Remote Market Makers with 7 [seats] OTPs may have up to 98 option issues within their primary appointments.

(H) Remote Market Makers with 8 [seats] OTPs may have up to 120 option issues within their primary appointments.

The Exchange will determine uniform limits on the number of issues applicable to RMMs with more than 8 [seats] OTPs.

Rule 6.35(g)(3) – Commentary .05 – No Change.

* * *

Rule 6.37(a) – (b)(1)(D) – No Change.

Rule 6.37(b)(1)(E) no more than \$1 when the last bid is \$20.10 or more, provided that the two Trading Officials or [the] an Exchange Official may establish differences other than the above for one or more series or classes of options.

Rule 6.37(b)(1)(F) – (b)(1) – No Change.

Rule 6.37(b)(2) Bidding no more than \$1 lower and/or offering no more than \$1 higher than the last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the price per share (or other unit of trading) of the underlying security or Exchange-Traded Fund Share has changed since the last preceding transaction for the particular option contract, in which even a Market Maker may then bid no lower than or offer no more than \$1 plus the aggregate change in the price per share (or other unit of trading) of the underlying security or Exchange-Traded Fund Share since the time of the last preceding transaction for the particular option contract. This provision applies from one day's close to the next day's opening and from one transaction to the next in intra-day transactions. With respect to inter-day transactions, this provision applies if the closing transaction occurred within one hour of the close and the opening transaction occurred within one hour after the opening. With respect to intra-day transactions, this provision applies to transactions occurring within one hour of one another. Two [Floor] Trading Officials or an Exchange Official may waive the provisions of this paragraph in an index option when the primary underlying securities market for that index is not trading. Nothing in this subparagraph (b)(2) shall alter the maximum bid/ask differentials established by subparagraph (b)(1) of Rule 6.37.

Rule 6.37(b)(3) – (c) – No Change.

Rule 6.37(d) - In-Person Requirements for Market Makers (other than Remote Market Makers who are not present on the Trading Floor). In order to meet the obligations of this rule, and in the interest of a fair and orderly market, an adequate number of Market Makers must be available throughout each trading session. In acknowledgement thereof, the following minimum in-person trading requirements shall be in effect: At least 60% of a Market Makers transactions must be executed by the Market Maker in-person, while he is present on the Options Trading Floor of the Exchange. Orders executed for a Market Maker through a Floor Broker will not be credited toward the 60% requirement. A failure to comply with this 60% in-person trading requirement may result in a fine pursuant to Rule 10.[13]12; however, if aggravating circumstances are present, formal disciplinary action may be taken pursuant to Rule 10.[3]4.

In order to assure compliance with the spirit and intent of the 60% requirement, the Exchange may review each of the Market Maker's transactions used to meet the 60% requirement.

Rule 6.37(e) – (h)(3) – No Change.

Rule 6.37(h)(4) A Remote Market Maker may be called upon by an Exchange official designated by the Board of [Governors] Directors to submit a single quote or maintain continuous quotes in one or more series of an option issue to which the Remote Market Maker is appointed whenever, in the judgment of such official, it is necessary to do so in the interest of maintaining fair and orderly markets.

(5) Remote Market Makers must trade at least 75% of their average daily trading volume per quarter in issues included in their primary appointments pursuant to Rules 6.35(g) and 6.35(h)(2). Remote Market Makers may trade up to 25% of their quarterly contract volume in option issues that are not included within their primary appointments. Remote Market Makers may not enter two-sided quotations in option issues that are not included within their primary appointments.

(6) If the Exchange finds any failure by a Remote Market Maker to engage in a course of dealings as specified in subsections (3)-(5) above, such Remote Market Maker will be subject to disciplinary action and suspension or revocation of registration by the Exchange in one or more of the option issues in which the Remote Market Maker holds a primary appointment. Nothing in this Rule will limit any other power of the Board of [Governors] Directors under the Bylaws, Rules, or procedures of the Exchange with respect to the registration of a Remote Market Maker or in respect to any violation by a Remote Market Maker of the provisions of this Rule.

Rule 6.37(h)(7) – Commentary .09 – No Change.

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Rule 6.45(a) – (c) – No Change.

Rule 6.45(d) - FLEX Options. Floor Brokers may not act as such in respect of FLEX Options contracts unless one or more Letter(s) of Authorization on behalf of such Floor Brokers has been issued by a Clearing Member in accordance with Rule [8.115(b)] 5.41.

* * *

Rule 6.54 When, in the opinion of an Order Book Official, there is any unusual activity, transactions, or price change or there are other unusual market conditions or circumstances which are, with respect to any option contract in which he is acting as an Order Book Official, detrimental to the maintenance of a fair and orderly and competitive

market, he shall promptly make a report to a[n Options] Trading Official or an Exchange Official.

Commentary .01 – No Change.

* * *

Rule 6.65(a) – (b) – No Change.

(c) *Options Floor Trading Halt Guidelines*. Trading halts are, by definition, unusual market conditions. Accordingly, all of the precise circumstances of a trading halt cannot be anticipated. An evaluation of all the circumstances at the time a trading halt is under consideration is critical. Except as provided below, to ensure consistent application of the Exchange's trading halt guidelines, such decisions shall be made by [concurrence of] two Trading Officials or [and] an [senior] Exchange Official [is required]. Bearing in mind the need to exercise discretion in response to particular circumstances as they occur, the following are guidelines for trading halts at the Exchange under varying circumstances:

(c)(1) – (3) – No Change.

(c)(4) *The primary market halts trading floor-wide*. If the primary market halts trading floor-wide, the Exchange will halt trading in all individual equity options overlying the securities so halted in the primary market and will assess the viability of markets in the underlying securities, as measured by transactions and by share volume. In the event that it is determined by two Trading Officials or an [, with the concurrence of a senior] Exchange Official that sufficient markets will support trading other than on the primary exchange, the Exchange will resume trading. Generally the Exchange will notify OTP Holders and OTP Firms and the news wire services of the resumption of trading.

Rule 6.65(c)(5) –(c)(6) – No Change.

Rule 6.65(c)(7) *Expiration Friday trading in individual equity options*. In the event that any of the foregoing should occur on expiration Friday, it is the preference of the Exchange to allow trading to continue on that date. This will be a primary consideration in the assessments to be made by the Trading Officials or an [and the senior] Exchange Official.

(8) *Dissemination of news after the close of trading in the primary market*. Any two Trading Officials or an [the] Exchange Official may halt trading in any security or Exchange-Traded Fund Share in the event of disseminated news that causes the Trading Officials or the Exchange Official to believe that trading in options should be halted to allow market participants an opportunity to consider the effect of the news on pricing of trades. Two Trading Officials or an [and a senior] Exchange Official will then decide whether and, if so, when to recommence trading. This may occur after the primary market of the underlying security has closed for the day, in which event, the decision may

be to not resume trading until the next trading day or to have a closing rotation after appropriate notification to the public.

Commentary .01 – No Change.

Commentary .02 - In the event that trading in any option is halted, it will be the responsibility of one of the [Options] Trading Officials who authorized the trading halt or the Exchange Official and of the Order Book Official assigned to the option with respect to which trading was halted, to file a report with the Exchange Operations setting forth the time and duration of such halt and the reasons therefor.

Commentary .03 – No Change.

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Rule 6.69(a) All option transactions must be immediately reported to the Exchange, in a form and manner prescribed by the Exchange, for dissemination to the Options Price Reporting Authority ("OPRA"). This requirement applies to all OTP Holders or OTP Firms who are required to report trades either directly to OPRA or to another party who is responsible for reporting trades to OPRA. Transactions not reported to OPRA within 90 seconds after the execution will be designated as "late." An OTP Holder or OTP Firm who is responsible for late reporting of an option transaction, without reasonable justification or excuse, will be subject to a fine pursuant to Rule 10.[13]12. Repeated or aggravated violations of this rule may result in formal disciplinary action.

Rule 6.69(b) – (e) – No Change.

Commentary .01 - .04 – No Change.

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Rule 6.76 - The rules of priority and order allocation procedures set forth in this Rule 6.76 will apply to option issues designated by the Exchange to be traded in PCX Plus. The maximum size of an inbound order that may be eligible for execution on PCX Plus pursuant to Rule 6.76(b) ("the Maximum Order Size") will be initially established by the LMM in the issue, subject to the approval of the Exchange. Any request by the LMM for changes to the Maximum Order Size must be accompanied by a verified statement indicating the business reason for the change and the estimated duration of such change. Such requests must be approved by the Exchange Official or two Trading Officials[, whose approval must be further ratified by the Exchange]. An LMM is prohibited from requesting changes to the Maximum Order Size in order to manipulate the operation of PCX Plus or for any anti-competitive purposes.

Rule 6.76(a) – (d) – No Change.

Commentary .01 - .02 – No Change.

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Rule 6.83(a) No OTP Holder or OTP Firm, other than a Lead Market Maker ("LMM") acting pursuant to Rule 6.82, limited partner, officer, employee, approved person or party approved, who is affiliated with an LMM or OTP Holder or OTP Firm, shall, during the period of such affiliation, purchase or sell any option in which such LMM is appointed for any account in which such person or party has a direct or indirect interest. Any such person or party may, however, reduce or liquidate an existing position in an option in which such LMM is appointed provided that such orders are (i) identified as being for an account in which such person or party has a direct or indirect interest; (ii) approved for execution by a Trading Official or an Exchange Official; and (iii) executed by the LMM in a manner reasonably calculated to contribute to the maintenance of price continuity with reasonable depth. No order entered pursuant to this Subsection (a) shall be given priority over, or parity with, any order represented in the market at the same price.

Rule 6.83(b) – (j) – No Change.

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Rule 6.86(a) – (d)(1) – No Change.

Rule 6.86(d)(1)(A) If a Responsible Broker or Dealer is unable to update its quotations on a timely basis due to the high level of trading activity or the existence of unusual market conditions, the Responsible Broker or Dealer will promptly notify a Trading Official or an Exchange Official.

(B) Upon notification by a Responsible Broker or Dealer, the Trading Official or the Exchange Official will promptly verify the existence of the unusual market activity or condition and if, in the Trading Official's or the Exchange Official's judgment, the Responsible Broker or Dealer is unable to update its quotations on a timely basis, in the case of a Trading Official, the Trading Official will promptly notify the Exchange. If a Trading Official or the Exchange Official, independent of notification by a R[r]esponsible B[b]roker or D[d]ealer, becomes aware of any unusual market activity or condition that adversely affects a Responsible Broker or Dealer's ability to promptly communicate quotation data, in the case of a Trading Official, the Trading Official will likewise promptly advise the Exchange.

(C) If the Exchange is unable to accurately collect, process, or disseminate quotation data owing to a high level of trading activity or the existence of unusual market conditions, the Exchange[,after consultation with a Trading Official,] will make a

determination that this is the case.

(D) The Exchange, either on its own or after receiving notification from a Trading Official pursuant to either subsection (A) or (B), above, will notify the persons specified in SEC Rule 11Ac1-1(b)(3) regarding the Exchange's inability to accurately collect, process, and make available the quotation data required by SEC Rule 11Ac1-1. The Exchange will append to each quotation made available to a quotation vendor an identifier that will indicate that the obligation that is imposed upon Exchange OTP Holders and OTP Firms and the Exchange by SEC Rule 11Ac1-1 has been suspended.

(E) The Trading Official or Exchange Official [staff (as the case may be)] will monitor the unusual market activity or condition until it has terminated. Thereupon, the Exchange will immediately notify the persons specified in SEC Rule 11Ac1-1(b)(3) that the Exchange is once again capable of disseminating the quotation data required by SEC Rule 11Ac1-1 and Responsible Brokers or Dealers will be once again obligated under SEC Rule 11Ac1-1.

Commentary .01 - .02 – No Change.

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Rule 6.87(a) – (b)(6) – No Change.

Rule 6.87(b)(7) - The [OFTC] Exchange [or its delegate consisting of two Trading Officials or the Exchange] may increase the size of Auto-Ex eligible orders in one or more classes of multiply traded equity options to the extent that other options exchanges permit such larger-size orders in multiply traded equity options of the same class or classes to be entered into their own automated execution systems. If the [OFTC] Exchange [or its delegate, two Trading Officials or the Exchange] intends to increase the Auto-Ex order size eligibility pursuant to this subsection, the Exchange will notify the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Exchange Act.

Rule 6.87(c) – (d)(3) - No Change.

Rule 6.87(d)(4) - Effecting transactions that constitute manipulation as provided in PCX Rule [4.6(a)] 11.5 and SEC Rule 10b-5.

Rule 6.87(e) – No Change.

Rule 6.87(f) – (h)(3)(A) – No Change.

Rule 6.87(h)(3)(B) *Suspension of Auto-Ex*. If there are other unusual market conditions not involving a POETS System malfunction, two Trading Officials or an [the] Exchange Official may suspend Auto-Ex for a period of time not to exceed five minutes if, because of unusual market conditions or circumstances, the Trading Officials or the

Exchange Official determines that such action is appropriate in maintaining a fair and orderly market. [Whenever such action is taken, Trading Officials or senior Exchange Staff must immediately notify a Floor Governor.] Thereafter, the suspension of Auto-Ex may be ended, or may be continued for more than five minutes, based on a determination of two Trading Officials [and one Floor Governor (or a senior operations officer if no Floor Governor is available), with a 2/3 majority prevailing] or an Exchange Official.

Rule 6.87(h)(3)(C) – (i) – No Change.

Rule 6.87(j) Crossed or Locked Markets. Except as provided herein, two Trading Officials or an Exchange Official may approve an LMM's request to designate, for an option issue, that an order will default for manual representation in the trading crowd if the NBBO is crossed or locked. Notwithstanding the forgoing, Linkage Orders subject to PCX Rule 6.93(e) will not default for manual representation if the NBBO is locked.

Rule 6.87(k) - (p) – No Change.

Commentary .01 - .08 – No Change.

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Rule 6.90(a) – (d)(2) – No Change.

Rule 6.90-(e)(3) Effecting transactions that constitute manipulation as provided in PCX Rule [4.6(a)] 11.5 and SEC Rule 10b-5.

Rule 6.90(f) - (h) – No Change.

* * *

Rule 6.93 - By subscribing to the Plan, the Exchange has agreed to comply with, and enforce compliance by its [Members] OTP Holders and OTP Firms with the Plan. In this regard, the following will apply:

(a) Pricing. [Members] OTP Holders and OTP Firms may send P/A Orders and Principal Orders through the Linkage only if such orders are priced at the NBBO.

Rule 6.93 (b) – (c) – No Change.

(d) Responses to Linkage Orders.

(1) *Failure to Receive a Timely Response.* An [Member] OTP Holder or OTP Firm who does not receive a response to a P Order or a P/A Order within 20 seconds of sending the order may reject any response received thereafter purporting to report an execution of all or part of that order. The [Member] OTP Holder or OTP Firm so rejecting the response will inform the Exchange Participant sending that response of the

rejection within 15 seconds of receipt of the response.

(2) *Failure to Send a Timely Response.* If an [Member] OTP Holder or OTP Firm responds to a P Order or P/A Order more than 20 seconds after receipt of that order, and the Participant Exchange to whom the [Member] OTP Holder or OTP Firm responded cancels such response, the [Member] OTP Holder or OTP Firm will cancel any trade resulting from such order and will report the cancellation to OPRA.

Rule 6.93(e) - No Change.

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Rule 6.94(a) - Avoidance and Satisfaction of Trade-Throughs.

(1) *General Provisions.* Absent reasonable justification and during normal market conditions, [Members] OTP Holders and OTP Firms should not effect Trade-Throughs. Except as provided in paragraph (b) below, if an OTP Holder or OTP Firm [Member] effects a Trade-Through with respect to the bid or offer of a Participant Exchange in an Eligible Option Class and the Exchange receives a Satisfaction Order from an Aggrieved Party, either:

(i) the [Member] OTP Holder or OTP Firm who initiated the Trade-Through must satisfy, or cause to be satisfied, the Aggrieved Party by filling the Satisfaction Order in accordance with subsection (a)(2) below; or

(ii) if the [Member] OTP Holder or OTP Firm elects not to do so (and, in the case of Third Participating Market Center Trade-Through, the [Member] OTP Holder or OTP Firm obtains the agreement of the contra party that received the Linkage Order that caused the Trade-Through), then the price of the transaction that constituted the Trade-Through will be corrected to a price at which a Trade-Through would not have occurred. If the price of the transaction is corrected, the [Member] OTP Holder or OTP Firm correcting the price must report the corrected price to OPRA, notify the aggrieved party of the correction and cancel the Satisfaction Order.

(2) *Price and Size.* The price and size at which the Satisfaction Order will be filled are as follows:

(i) *Price.* A Satisfaction Order will be filled at the Reference Price. However, if the Reference Price is the price of an apparent Block Trade that caused the Trade-Through, and such trade was not, in fact, a Block Trade, then the [Member] OTP Holder or OTP Firm may cancel the Satisfaction Order. In that case, the [Member] OTP Holder or OTP Firm will inform the Aggrieved Party within three minutes of receipt of the Satisfaction Order of the reason for the cancellation. Within three minutes of receipt of such cancellation, the Aggrieved Party may resend the Satisfaction Order with a Reference Price of the bid or offer that was traded-through.

Rule 6.94(a)(2)(ii) – (a)(3) – No Change.

Rule 6.94(a)(4) - Protection of Customers. Whenever subsection (a)(1) applies, if Customer orders (or P/A Orders representing Customer orders) constituted either or both sides of the transaction involved in the Trade-Through, each such Customer order (or P/A Order) will receive:

(i) the price that caused the Trade-Through; or

(ii) the price at which the bid or offer traded through was satisfied, if it was satisfied pursuant to subsection (a)(1)(i), or the adjusted price, if there was an adjustment, pursuant to subsection (a)(1)(ii),

whichever price is most beneficial to the Customer order. Resulting differences in prices will be the responsibility of the [Member] OTP Holder or OTP Firm who initiated the Trade-Through.

(b) Exceptions to Trade-Through Liability. The provisions of subsection (a) pertaining to the satisfaction of Trade-Throughs will not apply under the following circumstances:

(1) the [Member] OTP Holder or OTP Firm who initiated the Trade-Through made every reasonable effort to avoid the Trade-Through, but was unable to do so because of a systems/equipment failure or malfunction;

(2) the [Member] OTP Holder or OTP Firm traded through the market of a Participant Exchange to which such [Member] OTP Holder or OTP Firm had sent a P/A Order or Principal Order, and within 20 seconds of sending such order the receiving Participant Exchange had neither executed the order in full nor adjusted the quotation traded through to a price inferior to the Reference Price of the P/A Order or Principal Order;

(3) the bid or offer traded through was being disseminated from a Participant Exchange whose quotes were Non-Firm with respect to such Eligible Option Class;

(4) the Trade-Through was other than a Third Participating Market Center Trade-Through and occurred during a period when, with respect to the Eligible Option Class, the Exchange's quotes were Non-Firm; provided, however, that unless one of the other conditions of this subsection (b) applies, during any such period: (i) [Members] OTP Holders and OTP Firms must make every reasonable effort to avoid trading through the firm quotes of another Participant Exchange; and (ii) it will not be considered an exception to paragraph (a) if an OTP Holder or OTP Firm [Member] regularly trades through the firm quotes of another Participant Exchange during such period;

(5) – (8) – No change.

(9) in the case of a Third Participating Market Center Trade-Through, a Satisfaction Order with respect to the Trade-Through was not received by the Exchange promptly following the Trade-Through. In applying this provision, the Aggrieved Party must send the Exchange a Satisfaction Order within three minutes from the time the report of the transaction that constituted the Trade-Through was disseminated over OPRA. To avoid liability for the Trade-Through, the [Member] OTP Holder or OTP Firm receiving such Satisfaction Order must cancel the Satisfaction Order and inform the Aggrieved Party of the identity of the Participant Exchange that initiated the Trade-Through within three minutes of the receipt of such Satisfaction Order (within one minute in the final five minutes of trading). The Aggrieved Party then must send the Participant Exchange that initiated the Trade-Through a Satisfaction Order within three minutes of receipt of the cancellation of the initial Satisfaction Order (within one minute in the final five minutes of trading).

(c) Responsibilities and Rights Following Receipt of Satisfaction Orders.

(1) When an OTP Holder or OTP Firm [Member] receives a Satisfaction Order, that [Member] OTP Holder or OTP Firm must respond as promptly as practicable pursuant to Exchange procedures by either:

(i) specifying that one of the exceptions to Trade-Through liability specified in paragraph (b) above is applicable and identifying that particular exception; or

(ii) taking the appropriate corrective action pursuant to paragraph (a) above.

(2) If the [Member] OTP Holder or OTP Firm who initiated the Trade-Through fails to respond to a Satisfaction Order or otherwise fails to take the corrective action required under paragraph (a) within three minutes of receiving notice of a Satisfaction Order, and the Exchange determines that:

(i) there was a Trade-Through; and

(ii) none of the exceptions to Trade-Through liability specified in subsection (b) above were applicable;

then, subject to the next paragraph, the [Member] OTP Holder or OTP Firm who initiated the Trade-Through will be liable to the Aggrieved Party for the amount of the actual loss resulting from non-compliance with paragraph (a) and caused by the Trade-Through.

If either (a) the Aggrieved Party does not establish the actual loss within 30 seconds from the time the Aggrieved Party received the response to its Satisfaction Order (or, in the event that it did not receive a response, within four minutes from the time the Aggrieved Party sent the Satisfaction Order) or (b) the Aggrieved Party does not notify the Exchange Participant that initiated the Trade-Through of the amount of such loss within one minute of establishing the loss, then the liability will be the lesser of the actual

loss or the loss caused by the Trade-Through that the Aggrieved Party would have suffered had that party purchased or sold the option series subject to the Trade-Through at the "mitigation price."

The "mitigation price" is the highest reported bid (in the case where an offer was traded through) or the lowest reported offer (in the case where a bid was traded through), in the series in question 30 seconds from the time the Aggrieved Party received the response to its Satisfaction Order (or, in the event that it did not receive a response, four minutes from the time the Aggrieved Party sent the Satisfaction Order). If the Participant Exchange receives a Satisfaction Order within the final four minutes of trading (on any day except the last day of trading prior to the expiration of the series which is the subject of the Trade-Through), then the mitigation price will be the price established at the opening of trading in that series on the Aggrieved Party's Participant Exchange on the next trading day. However, if the price of the opening transaction is below the opening bid or above the opening offer as established during the opening rotation, then the mitigation price will be the opening bid (in the case where an offer was traded through) or opening offer (in the case where a bid was traded through). If the Trade-Through involves a series that expires on the day following the day of the Trade-Through and the Satisfaction Order is received within the four minutes of trading, the "mitigation price" will be the final bid (in the case where an offer was traded through) or offer (in the case where a bid was traded through) on the day of the trade that resulted in the Trade-Through.

(3) An OTP Holder or OTP Firm [Member] that is an Aggrieved Party under the rules of another Participant Exchange governing Trade-Through liability must take steps to establish and mitigate any loss such [Member] OTP Holder or OTP Firm might incur as a result of the Trade-Through of the [Member] OTP Holder's or OTP Firm's bid or offer. In addition, the [Member] OTP Holder or OTP Firm must give prompt notice to the other Participant Exchange of any such action in accordance with subsection (c)(2) above.

(d) Limitations on Trade-Throughs. [Members] OTP Holders and OTP Firms may not repeatedly trade through better prices available on other exchanges, whether or not the exchange or exchanges whose quotations are traded through are Participant Exchanges, unless one or more of the provisions of paragraph (b) above are applicable. In applying this provision:

(1) The Exchange will consider there to have been a Trade-Through if an OTP Holder or OTP Firm [Member] executes a trade at a price inferior to the NBBO even if the Exchange does not receive a Satisfaction Order from an Aggrieved Party pursuant to subparagraph (a)(1);

(2) The Exchange will not consider there to have been a Trade-Through if an OTP Holder or OTP Firm Member executes a Block Trade at a price inferior to the NBBO if such [Member] OTP Holder or OTP Firm satisfied all Aggrieved Parties pursuant to

subsection (a)(2) following the execution of the Block Trade; and

(3) The Exchange will not consider there to have been a Trade-Through if an OTP Holder or OTP Firm [Member] executes a trade at a price inferior to the quotation being disseminated by an exchange that is not a Participant Exchange if the [Member] OTP Holder or OTP Firm made a good faith effort to trade against the superior quotation of the non-Participant Exchange prior to trading through that quotation. A "good faith effort" to reach a non-Participant Exchange's quotation requires that an OTP Holder or OTP Firm [Member] at least had sent an order that day to the non-Participant Exchange in the class of options in which there is a Trade-Through, at a time at which such non-Participant Exchange was not relieved of its obligation to be firm for its quotations pursuant to Rule 11Ac1-1 under the Exchange Act, and that the non-Participant Exchange neither executed that order nor moved its quotation to a price inferior to the price of the [Member] OTP Holder's or OTP Firm's order within 20 seconds of receipt of that order.

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Rule 6.95(a) – No Change.

Rule 6.95(b) – OTP Holders and OTP Firms [Members] Other than an Eligible Market Maker Locking or Crossing a Market. An OTP Holder or OTP Firm [Member] other than an Eligible Market Maker that creates a Locked Market or a Crossed Market will unlock (uncross) the market.

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Rule 6.97 – 6.99 – Reserved.

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Rule 6.100(a) – (f) – No Change.

Rule 6.100(g) - A presumption of failure to meet minimum performance standards by an LMM or trading crowd under subpart (b) of this Advice may form the basis for Exchange action against the LMM or any and all members of the trading crowd. Any member or members affected by a decision of the Exchange shall be informed in writing of the decision, which decision shall include the findings, conclusions, any remedial action to be taken under this Advice and the basis for such actions (hereinafter "written notification"). The decision shall also include a statement concerning the LMM's or trading crowd's right to appeal the Exchange's decision to the Board of [Governors] Directors.

(h) If, after receiving the notice of meeting provided for in subpart (d) of this Advice, or the notice of hearing provided in subparagraph (e) of this Advice, the LMM, trading crowd, or the trading crowd's representative, refuses or otherwise fails without reasonable justification or excuse to meet with the Exchange, the Exchange may take

such remedial action specified in subpart (a) of the Advice as it believes appropriate.

(i) If the Exchange takes one or more of the actions specified in subpart (a) of this Advice, such action may be reviewed by the Board of [Governors] Directors, pursuant to Rule 11.7 of the Rules of the [Board of Governors] Pacific Exchange, upon submission of a timely application for review. Such application must be submitted to the Exchange within twenty days of receipt of written notification. Unless the Board decides otherwise, the review shall be limited to matters raised at the allocations meeting or contained in the written notification. The Board review panel or the Chairman of the Board has the authority to grant or deny a stay of the Exchange's action. Any decision of the Exchange under this Advice may also be called for review by the Board on its own initiative.

Commentary .01 – No Change.

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