



RULE  
ADOPTION  
NOTICE

**RAN-05-59**  
**September 2, 2005**

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

**FROM: Department of Regulatory Policy**

**SUBJECT: OTP Holder/OTP Firm/ETP Holder Arbitration Direct  
Communication  
(File No. SR-PCX-2005-99)**

On August 23, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission a proposed rule change to amend the PCX Options and PCX Equities arbitration rules to allow direct communication with arbitrators. The proposed rule change became effective upon filing.

The following is the text of the rule change. Questions regarding this bulletin may be directed to Steven Matlin at (415) 393-4084.

**EXHIBIT 5**  
**Text of the Proposed Rule Change:<sup>1</sup>**

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

**Rule 12**  
**Arbitration**

Rule 12.36 Direct Communication Between Parties and Arbitrators

(a) This rule provides procedures under which parties and arbitrators may communicate directly.

(b) Only parties that are represented by counsel may use direct communication under this Rule. If during the proceeding, a party chooses to appear pro se (without counsel), this Rule shall not longer apply.

(c) All arbitrators and all parties must agree to the use of direct communication during the Initial Prehearing Conference or a later conference or hearing before it can be used.

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<sup>1</sup> New text is underscored; deleted text is in brackets.

(d) Parties may send the arbitrators only items that are listed in an order.

(e) Parties may send items by regular mail, overnight courier, facsimile, or email. All the arbitrators and parties must have facsimile or email capability before such a delivery method may be used.

(f) Copies of all materials sent to arbitrators must also be sent at the same time and in the same manner to all parties and the Director. Materials that exceed 15 pages, however, shall be sent to the Director only by regular mail or overnight courier.

(g) The Director must receive copies of any orders and decisions made as a result of direct communications among the parties and the arbitrators.

(h) Parties may not communicate orally with the arbitrators outside the presence of all parties.

(i) Any party or arbitrator may terminate the direct communication order at any time, after giving written notice to the other arbitrators and the parties.

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## Rules of PCX Equities, Inc.

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