



RULE
ADOPTION
NOTICE

RAN-02-04
February 19, 2002

TO: All PCX Members and Member Organizations

FROM: Department of Regulatory Policy

SUBJECT: Transfer of Positions
(File No. SR-PCX-2001-33)

On February 5, 2002, the Securities and Exchange Commission approved the PCX's rule proposal that specifies the transfers of positions that may occur off the floor and the transfers of positions that must be offered to the floor. Under the rule change, transfers involving a discontinuation of management or ownership must be offered to the floor. The rule permits an exemption from the requirement that a transfer be offered to the floor if approved by the Chief Executive Officer.

(a) Transfer of Positions from off the Floor.

Transfers involving a continuity of ownership or management or that involve donations to a not-for-profit corporation or a gift to a minor may be transferred from off the floor. The specific circumstances are as follows:

- (i) Joint account dissolution with remaining member assuming the positions;
- (ii) Business dissolution with a former nominee assuming the positions;
- (iii) Positions transferred as capital contribution to a new joint account, partnership, or corporation;
- (iv) Donation of positions to a not-for-profit corporation;
- (v) Transfer to a minor under the "Uniform Gifts to Minor" Act;
- (vi) Merger or acquisition with continuity of ownership or management; or
- (vii) Accounts consolidation within a member organization.

Transfers off the floor require written approval by the Exchange.

(b) Transfer of Positions Offered on the Floor.

Transfers involving circumstances other than those that permit transfers off the floor ((a)(i) through (vii) above)) must be offered on the floor unless an exemption from the Chief Executive Officer is obtained. The rule sets forth the procedures for positions offered to the floor.

Following is the text of the approved rule change. Questions regarding this bulletin may be directed to Cindy Sink at (415) 393-7926.

EXHIBIT A

Text of the Rule Change¹

Rule 6.78 (a)-(c) - No change.

Transfer of Positions

(d) Transfer of Positions off the Floor. “Transfer of positions off the floor” is defined as moving a member’s ownership interest in securities from its account to an account of another member or person in a manner other than trading on the floor of a securities exchange.

(1) Transfers off the Floor. Notwithstanding the prohibition set forth in subsection (a), an Exchange member may transfer positions off the floor if the transfer involves one or more of the following events: (i) the dissolution of a joint account in which the remaining member assumes the positions of the joint account; (ii) the dissolution of a corporation or partnership in which a former nominee of that corporation or partnership assumes the positions; (iii) positions transferred as part of a member’s capital contribution to a new joint account, partnership, or corporation; (iv) the donation of positions to a not-for-profit corporation; (v) the transfer of positions to a minor under the Uniform Gifts to Minors Act; (vi) a merger or acquisition resulting in a continuity of ownership or management; or (vii) consolidation of accounts within a member organization.

(2) Written Request. No member or member organization may effect a transfer of positions off the floor in any security listed on the Exchange without the prior submission of a completed written request to the Exchange. This requirement applies regardless of whether the transfer is permitted under subsection (d)(1) or (f).

(e) Transfer of Positions Offered on the Floor. “Transfer of positions offered on the floor” is defined as moving a member’s ownership interest in securities from its account to an account of another member or person in circumstances other than those set forth in subsection (d)(1).

(1) Transfer Procedure for Positions Offered on the Floor. A member seeking a transfer must offer the positions on the floor in the following manner:

(A) A member or member organization seeking to transfer positions on the floor (“Transferor”) must specify the securities positions to be transferred that are traded on the Exchange or at another securities exchange (“Transfer Positions”). In offering Transfer Positions to the floor, the Transferor must offer a set of options or other

¹ New text is underscored. Deleted text is in brackets.

financial products being offered by the Transferor as a package (“Transfer Package”), to be bid upon at a net debit or credit for the entire Transfer Package. A single Transfer Package must include no more than one option issue listed on the Exchange, but may also include stock or other securities. A Transferor may offer multiple Transfer Packages on the floor at the same time or on the same day. These offers must be made in a form and manner prescribed by the Exchange.

(B) A Transfer Package consisting solely of positions in one option issue and no other securities will be offered by the Transferor at the post at which that option issue is traded (“Post-Specific Transfer Packages”). Post-Specific Transfer Packages must be individually priced and reported. Post Specific Transfer Packages are subject to the ordinary procedures for trading options, and not those set forth in subsection (e), unless a bid or offer is made for a combination of Transfer Packages pursuant to subsection (e)(1)(I).

(C) A Transfer Package consisting of positions in an option issue and other financial instruments must be offered at the FLEX post. In addition, notice must be given to the OBO of each post (or the LMM for the particular issue, as appropriate) where a component of the Transfer Package trades. The OBO will announce the pending transfer of positions prior to the offer being made at the FLEX post.

(D) A member submitting a Transfer Package must designate a member of the Exchange (“Transferor Designee”) to represent the order on the floor. The Transferor Designee must be available to answer questions regarding the Transfer Package during the entire Request Response Time (as defined in subsection (e)(1)(G)).

(E) To the extent applicable and as modified by subsection (e), Transfer Packages offered at the FLEX post will be subject to the procedures set forth in Rule 8.103 (FLEX Trading Procedures and Principles), subsections (a) through (c).

(F) Acceptance of the best bid or offer (“BBO”) creates a binding contract under Rule 6.77. The Transferor is not obligated to accept the BBO. If the Transferor does not accept the BBO, the Transferor may request an exemption pursuant to paragraph (f) of this Rule, or may offer the Transfer Package(s) (or the Transfer Positions in any other allowable combination) on the floor the next day pursuant to the procedures in this Rule. If the Transferor decides not to accept a BBO on a second day, the Transferor must request permission of two Floor Officials to offer the Transfer Positions on any subsequent day(s).

(G) The "Request Response Time" for a “Request for Quotes” for Transfer Packages is two hours. The transferor may apply to two Floor Officials to have a Request Response Time for a transfer procedure that is less than two hours, where the Transfer Package is not complicated, or that is greater than two hours, where the complexity of the particular Transfer Package warrants the additional time.

(H) A Request for Quotes that is to be submitted later than 11:00 a.m. Pacific Time must have the approval of two Floor Officials. In no event may a Request for Quotes be submitted to the floor later than 12:30 p.m. Pacific Time.

(I) The Transferor may accept a bid or offer for one or more of the Transfer Packages he/she has offered on the floor, if the accepted bid or offer for the combination of the Transfer Packages is equal to or better than the total of the individual BBOs for the particular Transfer Package combination and equal to or greater than any bid or offer for the same combination of Transfer Packages.

(J) All transactions (including stock positions or other positions that must be transacted on another exchange) required to be completed in order to effectuate the transfer of the Transfer Package must be completed in time for the option portion to be transacted by the end of the trading day.

(K) If equal bids or offers are received for a Transfer Package at a price accepted by the Transferor, the Transfer Package will be divided equally among all members submitting the bids or offers to the extent possible unless the parties submitting the bids or offers agree to a division in another manner. Two Floor Officials will resolve Transfer Package division disputes.

(f) Exemptions. The Exchange's Chief Executive Officer or designee thereof may grant an exemption from the requirements of subsection (e), upon that person's own motion or upon application of a Transferor, when, in the judgment of the Chief Executive Officer or designee, the market value of the Transferor's business will be compromised by having to comply with subsection (e) or when, in the judgment of the Chief Executive Officer or designee market conditions make position transfer offers on the floor impractical. The Chief Executive Officer or designee will consider effects on open interest and other factors deemed necessary to ensure fair and orderly market conditions.

Commentary:

.01 - No change.

.02 Acquisitions and dissolutions in which all or substantially all of the assets of one member or member organization are acquired by another or, where there remains no continuity of ownership or management are examples of situations that normally would be required to be subjected to the transfer process set forth in subsections (e) and (f). This list is not meant to be exhaustive, however, and there may be other situations in which there is a discontinuation of ownership or management of the positions that may require that the positions be brought to the floor for transfer. Questions on whether a transfer should be brought to the floor may be directed to the Exchange's Options Surveillance Department.

.03 To the extent applicable, all other Exchange rules, including Rule 6.49, Solicited Transactions, will apply to the transfer procedure set forth in subsections (d) through (f). The following Rules do not apply to transfer procedures: 6.71 (Meaning of Premium Bids and Offers); 6.74 (Bids and Offers in Relation to Units of Trading); 6.75

(Priority of Bids and Offers); 6.76 (Priority of Split Price Transactions); 6.47 (“Crossing” Orders and Stock/Option Orders); and 7.9 (Meaning of Premium Bids and Offers, Index Options).

.04 The procedure established by subsections (d) through (f) may also be used by Market Makers who, for reasons other than a forced liquidation, such as an extended vacation, wish to liquidate their entire, or nearly their entire, position in a single set of transactions. However, this procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process.