



RULE  
ADOPTION  
NOTICE

**RAN-04-22**  
**September 10, 2004**

**TO: All PCX OTP Holders and OTP Firms**

**FROM: Department of Regulatory Policy**

**SUBJECT: Exchange Examination Requirements**  
**(Files No. SR-PCX-2003-51 and SR-PCX-2004-71)**

On October 29, 2003, the Exchange filed with the Securities and Exchange Commission a proposed rule to amend its rules regarding certain examination requirements. The Exchange filed Amendments No.1, No. 2 and No. 3 to the proposed rule filing on December 18, 2003, March 15, 2004 and April 23, 2004 respectively. The Commission approved the proposed rule change on June 28, 2004. On July 19, 2004 the Exchange filed SR-PCX-2004-71 which amended the rules approved in SR-PCX-2003-51 to account for the organizational changes that resulted from demutualization. The Exchange filed Amendment No. 1 to SR-PCX-2004 on August 13, 2004 and Amendment No. 2 to SR-PCX-2004-71 on August 19, 2004. The Commission approved the proposed rule change on September 3, 2004.

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

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

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

**Rule 2**  
**Option Trading Permits**

**Denial of and Conditions to OTPs**

Rule 2.5(b)(1 – 9) – No change.

(10) does not successfully complete [such written proficiency] examinations as required by the Exchange to [enable it to examine and] verify the applicant's qualifications to function in [one or more of the] capacities covered by the application [applied for];

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

## Series 7 Requirement for Off-Floor Traders

(A) All [T] traders of member organizations for which the Exchange is the Designated Examining Authority ("DEA") must successfully complete the General Securities Registered Representative Examination Test, Series 7, [if the primary business of the member organization involves the trading of securities that is unrelated to the performance of the functions of a registered specialist, a registered market maker or a registered floor broker. The following are exempt from the requirement to successfully complete the Series 7 Examination: Exchange members who] except for individuals who are performing the function of a [registered specialist,] registered market maker (pursuant to Rule 6.33), [or] registered floor broker (pursuant to Rule[s 5.27(a), 6.33 or] 6.44[, respectively]) and associated persons of member firms who facilitate the execution of stock transactions for the accounts of options market makers.

For purposes of this Rule:

(i) The term "trader" means a person who is directly or indirectly compensated by an OTP Firm and who trades, makes trading decisions with respect to, or otherwise engages in the proprietary or agency trading of securities; and

(ii) The term "primary business" means greater than 50% of the member organization's business.

(B) Each OTP Firm and OTP Holder for which the Exchange is the DEA must complete, on an annual basis, and on a form prescribed by the Exchange, a written attestation as to whether the member organization's primary business is conducted in the performance of the function of a registered specialist, a registered market maker or a registered floor broker (pursuant to Rules 5.27(a), 6.33 or 6.44, respectively).

(C) The requirement to complete the Series 7 Examination will apply to current Traders of OTP Firms that meet the criteria of subsection (A), above, as well as to future Traders of OTP Firms that meet the criteria of subsection (A), above, at a later date. Traders of OTP Firms that meet the criteria of subsection (A), above, at the time of SEC approval of this Rule, must successfully complete the Series 7 Examination within six months of notification by the Exchange.]

Rule 2.5(b)(11 – 13) – No change.

Rule 2.5(c)

Prior to admission to the trading floor or participation on any trading system, all applicants are required to complete an Exchange Orientation Program. The Exchange may waive [or modify] a required examination [for any applicant if,] under the following conditions:

(1) [within two years of the date such applicant applied to the Exchange for membership, such] an applicant for registration as a Market Maker pursuant to Rule 6.33 [has] must have successfully completed the Series 44 Examination within five years of the application date for an OTP and the applicant must have been an OTP Holder within six months of the application date for an OTP. [a comparable examination administered by a self-regulatory organization or the Securities and Exchange Commission.]

(2) an applicant for registration as a Floor Broker pursuant to Rule 6.44 must have successfully completed the Series 45 Examination within five years of the application date for an OTP and the applicant must have been an OTP Holder within six months of the application date for an OTP.

(3) an applicant must have successfully completed an equivalent examination administered by a self-regulatory organization within five years of the application date for an OTP and the applicant must have been a member of any self-regulatory organization within six months of the application date for an OTP.

(4) in the opinion of the Exchange, appropriate basis for an exemption from a required examination exists based on the following standards of evidence regarding an applicant's qualifications:

(A) length and quality of securities industry experience or professional experience in investment related fields;

(B) specific registration requested by the applicant and type of business to be conducted in relation to the applicant's experience;

(C) previous registration history with the Exchange and nature of any pre-existing regulatory matters; and

(D) other examinations (e.g., Series 7 Examination) taken by the applicant that may be acceptable substitutes in conjunction with securities industry experience.

Within fifteen calendar days after the Exchange reviews a request for a waiver of the examination requirement, the Exchange shall provide the applicant with a written determination of whether the waiver was granted or denied. If the Exchange denies the request for a waiver, the notice shall include a statement with the reasons for the denial. An applicant whose request for a waiver is denied may appeal the decision of the Exchange in accordance with the terms and conditions of Rule 10.14.

Rule 2.5 d – f [c – e] – No change.

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