



RULE
ADOPTION
NOTICE

RAN-05-66
September 30, 2005

TO: All OTP Holders and OTP Firms

FROM: Department of Regulatory Policy

SUBJECT: Changes in Arbitration Rules
(File No. SR-PCX-2005-106)

On September 20, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the PCX Options and PCX Equities, Inc. arbitration rules to rescind the pilot rules relating to the waiver of the California Ethics Standards for Neutral Arbitrators in Contractual Arbitration and the waiver of California Code of Civil Procedure Section 1281.92. The proposed rule change was approved by the Commission on September 27, 2005.

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

EXHIBIT 5
Text of the Proposed Rule Change:¹

Rules of the
Pacific Exchange, Inc.

Rule 12
Arbitration

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Rule 12.1(a) – (i)(1) – No change.

(2) Reserved. [fail to waive the California Rules of Court, Division VI of the Appendix, entitled "Ethics Standards for Neutral Arbitrators in Contractual Arbitration" (the "California Standards"), if the OTP Holder, OTP Firm or person associated with an OTP Holder or OTP Firm is a party to an arbitration filed pursuant to Rule 12;]

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

(3) Reserved. [fail to waive any claims against the Exchange that the conduct of the arbitration violates the California Code of Civil Procedure Section 1281.92 ("CCCP Claims"), if the OTP Holder, OTP Firm or person associated with an OTP Holder or OTP Firm is a party to an arbitration filed pursuant to this Rule 12 (other than arbitrations solely between or among OTP Holders, OTP Firms and/or persons associated with an OTP Holder or OTP Firm that do not involve consumer-related or employment-related claims);]

Rule 12.1(i)(4) – (j) – No Change.

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[Rule 12.35 Arbitration claims will be administered in accordance with this Rule 12 only if:

All parties to the arbitration have waived, without condition and in the form required by the Exchange, the application of the California Standards and the CCCP Claims (as defined in Commentary .02 of Rule 12.1); provided, however, that the parties are not required to waive the CCCP claims in arbitrations solely between or among OTP Holders, OTP Firms and/or persons associated with an OTP Firm or OTP Holder that do not involve consumer-related or employment-related claims. PCX will decline jurisdiction over, dismiss and refund fees paid to PCX by the parties for, any arbitration claims in which any of the parties to arbitration fail to sign both waivers, where required.]

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Rules of PCX Equities, Inc.

**Rule 12
Arbitration**

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Rule 12.2(a) – (h)(i) – No Change.

(ii) Reserved. [to fail to waive the California Rules of Court, Division VI of the Appendix, entitled "Ethics Standards for Neutral Arbitrators in Contractual Arbitration" (the "California Standards"), if the ETP Holder or person associated with an ETP Holder is a party to an arbitration filed pursuant to this Rule 12;]

(iii) Reserved. [fail to waive any claims against the PCXE that the conduct of the arbitration violates the California Code of Civil Procedure Section 1281.92 ("CCCP Claims"), if the ETP Holder or person associated with an ETP Holder is a party to an arbitration filed pursuant to this Rule 12 (other than arbitrations solely between or among ETP Holders and/or persons associated with an ETP Holder that do not involve consumer-related or employment-related claims);]

(iv) – (j) – No Change.

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Rule 12.35 [Arbitration claims will be administered in accordance with this Rule 12 provided all parties to the arbitration have waived, without condition and in the form required by the PCXE, the application of the California Standards and the CCCP Claims (as defined in Rule 12.1(h)); provided, however, that the parties are not required to waive the CCCP claims in arbitrations solely between or among ETP Holders and/or persons associated with an ETP Holder that do not involve consumer-related or employment-related claims. PCXE will decline jurisdiction over, dismiss and refund fees paid to PCXE by the parties for, any arbitration claims in which any of the parties to arbitration fail to sign both waivers, where required.]

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