



RULE
ADOPTION
NOTICE

RAN-03-27
October 2, 2003

TO: All PCX Members and Member Organizations

FROM: Department of Regulatory Policy

**SUBJECT: Options Linkage Limitation of Liability
(File No. SR-PCX-2003-20)**

On April 28, 2003, the Exchange filed with the Securities and Exchange Commission a proposed rule change to adopt Rule 13.5, relating to the limitation of liability of the Options Clearing Corporation with respect to the Options Intermarket Linkage system. On August 4, 2003, August 7, 2003, and September 16, 2003, the Exchange submitted Amendment Nos. 1, 2 and 3, respectively, to the proposed rule change. The SEC approved the proposal on September 30, 2003, as amended. The following is the text of the rule change. Questions regarding this bulletin may be directed to Tania Cho at (415) 393-4107.

EXHIBIT A

Text of the Proposed Rule Change:¹

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

**Rule 13
Liability of Governors and Exchange**

Rule 13.1 – No change.

Liability of the Exchange

Rule 13.2(a) – No change.

(b) Whenever custody of an unexecuted order is transmitted by a member to or through the Exchange's order routing systems, electronic book or automatic executions systems or to any other automated facility of the Exchange, excluding the Options Intermarket Linkage system, whereby the Exchange assumes responsibility for the transmission or execution of the order, provided that the Exchange has acknowledged receipt of such order, the Exchange's liability for the negligent acts or omissions of its employees or for the failure of its systems or facilities shall

¹

New text is underscored and deleted text is in brackets.

not exceed the limits provided in this paragraph, (b), and no assets of the Exchange shall be applied or shall be subject to such liability in excess of the following limits:

(i) – (iii) – No change.

(c) – No change.

Rules 13.3 – 13.4 – No change.

Liability for Options Intermarket Linkage

13.5(a). The Exchange operates the Options Intermarket Linkage (“Linkage”) for its Members or associated persons therewith pursuant to Rules 6.92-6.96. It shall be the responsibility of each Member or associated person therewith to verify the accuracy of transactions sent and received through the Linkage. The Linkage, as used to send orders and other information to or from the Exchange, is a facility or service afforded by the Exchange for purposes of Rule 13.2

(b) The Options Clearing Corporation, its affiliates, officers, directors, shareholders, agents and employees (collectively “OCC”), shall not be liable to Members or associated persons therewith for any loss, damage, claim or expense arising out of the use, non-use, or inability to use the Linkage, including without limitation the content of orders, trades, or other business facilitated through the Linkage, the truth or accuracy of the content of messages or other information transmitted through the Linkage, the delays in transmission of orders, trades, or otherwise.

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