

# PCX EQUITIES

## REGULATORY INFORMATION BULLETIN

RBE-02-08  
October 14, 2002

**TO:** All ETP Holders

**FROM:** Regulation Division

**SUBJECT:** De Minimis Exemption for Certain Exchange Traded Funds from ITS Trade-Through Provisions

On August 28, 2002, an order\* was issued by the Securities and Exchange Commission granting a de minimis exemption from the trade-through restrictions of the Intermarket Trading System ("ITS") Plan in certain exchange-traded funds ("Exempt ETFs") tracking the Nasdaq-100 Index ("QQQ"), the Standard & Poor's 500 Index ("SPY"), and the Dow Jones Industrial Average ("DIA"). The exemption covers transactions in the Exempt ETFs that are executed no more than three cents (\$0.03) away from the national best bid and offer ("NBBO") displayed in the Consolidated Quote.

All ETP Holders are advised by Pacific Exchange Equities ("PCXE") that certain PCXE rules have been changed to accommodate this exemption. Three order types: Immediate Or Cancel, Post No Preference and NOW orders will be permitted to execute at a price no more than three cents away from the NBBO. See below:

- **Executions at the NBBO:** PCXE Rule 7.37 provides that for "an execution to occur [on the Archipelago Exchange] ..., the price must be equal to or better than the NBBO, unless the Archipelago Exchange has routed orders to away markets at the NBBO, where applicable (however, a User may submit a NOW Order or Primary Only Order that may be routed to an away market without consideration of the NBBO)." As revised, PCXE Rule 7.37 further provides that this limitation will not apply to securities that are subject to an exemption from the Commission under SEC Rule 11Aa3-2(f) to the trade-through provisions of the ITS Plan. Orders in Exempt ETFs designated as IOC, NOW and PNP orders will be effected at a price no more than three cents (\$0.03) away from the best bid and offer quoted in CQS. Please refer to revised PCXE Rule 7.37.
- **Immediate-or-Cancel Orders ("IOC"):** An IOC for Exempt ETFs will be permitted to trade at a price no more than three cents away from the NBBO displayed in the Consolidated Quote. Please refer to revised PCXE Rule 7.31(e).
- **NOW Orders:** NOW Orders for Exempt ETFs will be permitted to be routed and executed at a price no more than three cents away from the NBBO displayed in the Consolidated Quote. Please refer to revised PCXE Rule 7.31(v).

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\* See Securities Exchange Act Release No. 46428 (August 28, 2002), 67 FR 56607 (September 27, 2002). Please note: this exemption is effective until June 4, 2003.

- **Post No Preference (“PNP”)Orders:** Exempt ETFs will no longer be automatically canceled at the time of order entry if such order would lock or cross the NBBO. PNP Orders in Exempt ETFs will be executed at a price no more than three cents away from the NBBO displayed in the Consolidated Quote. PNP Orders in Exempt ETFs that cause a trade-through in excess of the three cent threshold will be subject to nullification. Please refer to revised PCXE Rule 7.31(w).

Questions regarding this Bulletin should be directed to John Chapin, Director, Equities Surveillance, at (312) 442-7790, and David Rosedahl, Chief Regulatory Officer, at (415) 393-4037.