

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51399; File No. SR-PCX-2005-11)

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendments No. 1 and 2 Thereto Requiring Electronic Filing of Form U4 and Form U5 by ETP Holders Through the CRD

March 18, 2005

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 31, 2005, the Pacific Exchange, Inc. (“PCX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On February 28, 2005, the Exchange filed Amendment No. 1, and on March 16, 2005, the Exchange filed Amendment No. 2 to the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX, through its wholly owned subsidiary PCX Equities, Inc. (“PCXE”) proposes to amend PCXE Rules 2.3, 2.16 and 2.21 to support the implementation of an electronic registration process. The text of the proposed rule change is available on the PCX’s Web site <http://www.pacificex.com>, at the PCX’s Office of the Secretary, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The current PCX procedures require Equities Trading Permit (“ETP”) applicants to submit the Uniform Application for Securities Industry Registration or Transfer (“Form U4”) to the Exchange when they are requesting approval to become an ETP Holder and the Uniform Termination Notice for Securities Industry Registration (“Form U5”) when they wish to withdraw from the Exchange. These forms are currently submitted to the Exchange’s Shareholder and Registration Services (“SRS”) department.

The Exchange is now proposing to require all current ETP Holders and new applicants to use the National Association of Securities Dealers, Inc. (“NASD”) Central Registration Depository (“CRD”) as the mechanism for submitting required Forms U4 and U5 filings to the Exchange. As a result of this change, all ETP Holders that currently submit paper Forms U4 and U5 filings to the Exchange would be required to submit these forms electronically through Web CRD. The CRD is a Web based system that provides broker-dealers and their associated persons with “one stop filing” with the Commission, NASD, and other self-regulatory organizations and regulators. The CRD is operated by NASD and is used by participating regulators in connection with registering

and licensing broker-dealers and their associated persons.

As a result of moving from a manual application process to a fully electronic application process, the Exchange is proposing to reduce the time period, in which ETP Holders must file amendments to their applications, from fifteen business days to ten business days. The Exchange feels that the switch from a manual application process to a fully electronic application justifies such a reduction in time and therefore will not place any additional burden on the applicant. The Exchange has also proposed certain technical changes to the rule text that are necessary to adopt the rules associated with an electronic filing process.

The Exchange is also proposing to require ETP Holders to electronically file within ten (10) business days of such termination Form U5 with the CRD when any person associated with an ETP Holder terminates his association with such ETP Holder. In addition, any amendments to the Form U5 must be filed within ten business days of the occurrence causing the amendment. This proposed rule is necessary to fully automate the registration/termination process.

The Exchange anticipates that during the period between April 18, 2005, and May 13, 2005, ETP Holders will submit an updated Form U4 to Web CRD for all individuals who are employees of ETP Holders who have not previously submitted a Form U4 to Web CRD.<sup>3</sup> The proposed rule change would require any person seeking to become an ETP Holder or any individual employed by an ETP Holder to electronically file a Form U4 with Web CRD. The Exchange believes that automating the review of registration applications and termination notices by transmitting all Forms U4 and U5 filings to Web CRD will enable the Exchange to perform

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<sup>3</sup> A number of individuals that are employees of ETP Holders already have submitted Form U4 to Web CRD if they work for dual PCXE/NASD member firms and their job responsibilities require registration with NASD.

more efficiently its regulatory responsibilities with respect to ETP Holders and, thereby, will ultimately enhance investor protection.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

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<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);  
or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PCX-2005-11 on the subject line.

#### Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-PCX-2005-11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal

identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PCX-2005-11 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, that the Exchange's rules promote just and equitable principles of trade and facilitate transactions in securities, and, in general, protect investors and the public interest.

The Exchange has requested that the Commission approve the proposed rule change, as amended, on an accelerated basis. The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the Federal Register. The Commission has previously approved a substantially similar proposed rule change submitted by the American Stock Exchange LLC to provide for the processing of the Forms U4 and U5 through Web CRD<sup>9</sup> and does not believe that the proposed rule change raises novel regulatory issues. The proposed rule change, as amended, promotes uniformity of registration in the industry. Accordingly, the

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<sup>6</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> See Securities Exchange Act Release No. 48067 (June 19, 2003), 68 FR 39601 (July 2, 2003) (SR-Amex-2003-48).

Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,<sup>10</sup> to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, as amended, (SR-PCX-2005-11) is hereby approved on an accelerated basis.<sup>11</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Margaret H. McFarland,  
Deputy Secretary

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<sup>10</sup> 15 U.S.C. 78s(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12).