

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52502; File No. SR-PCX-2005-19)

September 23, 2005

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to Proposed New Listing Fees

I. Introduction

On February 28, 2005, the Pacific Exchange, Inc. (“PCX” or “Exchange”), through its wholly-owned subsidiary PCX Equities, Inc., filed with the Securities and Exchange Commission (“Commission”) a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² to increase certain portions of its listing fees and to make a number of related modifications. On June 15, 2005, PCX amended the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on August 16, 2005.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

PCX is proposing to amend its Schedule of Fees and Charges, as follows: (1) implement new initial listing fees specifically for common stock issued in initial public offerings and listed exclusively by PCX for trading on the Archipelago Exchange (“ArcaEx”), a facility of PCX, and make related modifications to the initial listing fees; (2) exempt from initial listing fees already-public issues which are listed and/or quoted on other marketplaces, whether or not dually listed; (3) exempt from annual maintenance fees transfer listings for the first 12 calendar months after

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 52225 (August 8, 2005), 70 FR 48224.

listing, whether or not dually listed; (4) revise the annual maintenance fees; and (5) revise the additional shares listing fees.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b) of the Act⁴ and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ which requires, among other things, that an exchange's rules provide for the equitable allocation of reasonable dues, fees, and other charges among issuers and other persons using its facilities. The Commission notes that the Exchange does not believe that the proposed listing fee changes, including the proposed exemptions from certain listing fees, would negatively impact the Exchange's regulatory program. Further, the Commission notes that PCX has committed extensive resources to its listings program since the ArcaEx began operating as a facility of PCX. Finally, the Commission believes that the proposal might also serve to enhance competition among listing markets.

⁴ 15 U.S.C. 78f(b).

⁵ In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(4).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-PCX-2005-19), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz
Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).