

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-52882; File No. SR-PCX-2005-130)

December 2, 2005

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market Maker Transaction Credits for Round Lots of Certain Listed Securities

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 November 29, 2005, the Pacific Exchange, Inc. (“PCX” or “Exchange”), through its wholly-owned subsidiary PCX Equities, Inc. (“PCXE”), submitted to the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the PCXE Schedule of Fees and Charges (“Schedule”) to reduce the transaction credit payable to Market Makers for the execution of round lot orders of NYSE listed securities. The text of the proposed rule change is below. Additions are underlined; deletions are [bracketed].

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

## SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

## ARCHIPELAGO EXCHANGE: MARKET MAKER FEES AND CHARGES

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Market Maker Transaction Credits

Round Lots

<u>NYSE</u> Listed Securities [(other than ETFs and ADRs)]	\$0.001[25] per share (credit) (applicable to Q orders executed against other participants' orders)
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<u>Listed Securities (other than NYSE Listed) and Nasdaq Securities</u>	\$0.002 per share (credit) (applicable to Q orders executed against other participants' orders)
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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 IV 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 Exchange proposes to amend the Fee Schedule, effective December 1, 2005, to reduce the transaction credit payable to Market Makers<sup>4</sup> for Q Orders<sup>5</sup> executed against other

<sup>4</sup> As defined by PCXE Rule 1.1(u)

<sup>5</sup> As defined by PCXE Rule 7.31(k)

Exchange participants' orders for round lots of NYSE listed securities. Currently, the credit to Market Makers for transactions of this type is \$0.0025 per share; however, as a strategy to better manage costs to the Exchange due to an increase in Market Maker participants and while maintaining incentives for providing liquidity in NYSE listed securities, the Exchange proposes to reduce these transaction credits to \$0.001 per share for NYSE listed securities and maintain the existing \$0.002 per share credit for securities listed on an exchange other than the NYSE and for Nasdaq listed securities.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its ETP Holders, issuers, and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change 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.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and

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<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>9</sup> At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

#### IV. 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-2005-130 on the subject line.

##### Paper comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC, 20549-0609.

All submissions should refer to File Number SR-PCX-2005-130. 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

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<sup>9</sup> 17 CFR 240.19b-4(f)(2).

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-2005-130 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Jonathan G. Katz  
Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).