

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 34-52927; File No. SR-PCX-2005-128)**

**December 8, 2005**

**Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Clarifying the Hours Certain Vanguard International Equity Index Funds Are Eligible to Trade on the Archipelago Exchange**

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 22, 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. The Exchange filed the proposed rule change as a “non-controversial” rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which rendered the proposal 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, through its wholly owned subsidiary PCX Equities, Inc. (“PCXE”), proposes to amend its rules governing the Archipelago Exchange (“ArcaEx”), the equity trading facility of PCXE. With this filing, the Exchange proposes to clarify the hours under PCXE Rule 7.34 that three exchange traded funds based on Vanguard International Equity Indices – Morgan Stanley Capital International Inc. (“MSCI”) Europe Index (ticker symbol: VGK), MSCI Pacific Index (ticker symbol: VPL), and MSCI Emerging Markets Select Index (ticker symbol: VWO) (the “Funds”) – are eligible to trade on ArcaEx pursuant to unlisted trading privileges (“UTP”).

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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> 17 CFR 240.19b-4(f)(6).

A copy of the proposed rule change is available on the PCX Web site ([www.pacificex.com](http://www.pacificex.com)), at the PCX's Office of the Secretary, and at the Commission's Public Reference Room.

**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**

On August 8, 2005, the Commission approved the Exchange's proposal to trade the Funds pursuant to UTP.<sup>4</sup> The Approval Order provided that the Funds would be eligible to trade on ArcaEx during the hours that the Intraday Indicative Value ("IIV") is disseminated.<sup>5</sup> With this filing, the Exchange seeks to clarify the Funds' trading hours, proposing that the Funds should instead be eligible to trade on ArcaEx in accordance with PCXE Rule 7.34, except that the Funds will not be eligible to trade during the Opening Session (4:00 a.m. ET to 9:30 a.m. ET) unless the IIV is disseminated during that time.

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>6</sup> of

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<sup>4</sup> See Securities Exchange Act Release No. 34-52221 (August 8, 2005), 70 FR 48222 (August 16, 2005) (SR-PCX-2005-74) ("Approval Order").

<sup>5</sup> See *id.* at text accompanying note 8.

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

the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

**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 Exchange has designated the proposed rule change as one that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>9</sup>

As required by Rule 19b-4(f)(6)(iii) under the Act,<sup>10</sup> the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of

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

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

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

filing the proposed rule change. Pursuant to Rule 19b-4(f)(6)(iii) under the Act,<sup>11</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The PCX has requested that the Commission waive the 30-day operative delay so that the proposed rule change can become immediately effective upon filing.

The Commission believes that waiving the 30-day operative date is consistent with the protection of investors and the public interest.<sup>12</sup> Specifically, the Funds are currently trading on ArcaEx in accordance with the Approval Order, and accelerating the operative date to allow the Funds to trade on ArcaEx, immediately upon effectiveness, in accordance with the proposed revised trading hours, would provide Equity Trading Permit Holders and the public greater liquidity and opportunities to trade, thereby helping to reduce trading costs and promote competition among marketplaces. For these reasons, the Commission designates the proposed rule change to be effective and operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 purposes of the Act.

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<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> For the purpose only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

#### **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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-PCX-2005-128 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 20549-9303.

All submissions should refer to File No. SR-PCX-2005-128. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. 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 No. SR-PCX-2005-128 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.

Jonathan G. Katz  
Secretary