

exchange.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things, that the rules of the Amex be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposal will add greater transparency and disclosure to the investing community. The proposed rule change provides that the Amex will utilize certain of the financial status indicator fields in CTS and CQS<sup>7</sup> to identify listed companies that (i) are noncompliant with continued listing standards and/or (ii) are delinquent with respect to a required federal securities law periodic filing. It also provides that the Amex will post a list of issuers subject to each indicator on its website. In addition, it will require an indicator to be disseminated over the High Speed Tape with respect to an issuer that has filed or announced its intent to file for reorganization relief under the bankruptcy laws (or an equivalent foreign law). Finally, the proposal amends Sections 401 and 1009 of the Amex Company Guide to explicitly clarify that issuance of a press release is required when a listed company is notified that it is noncompliant with the applicable continued listing standards. The Commission believes that the proposal will increase disclosure to investors when issuers are noncompliant with continued listing standards and/or are delinquent with respect to a required federal securities law periodic filing.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-Amex-2005-27) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>5</sup> In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> CTS and CQS, which are operated by the CTA, collect last-sale prices and current bid/ask quotations, respectively, with associated volumes for all exchange-listed equities. All trades and quotations in Amex-listed equities, regardless of the market center on which such equities are traded or quoted, are reported to CTS and CQS and disseminated on Tape B (also known as Network B).

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

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51580; File No. SR-PCX-2005-36]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Arbitration Fees

April 20, 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 March 24, 2005, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by PCX. On April 18, 2005, the PCX filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The PCX filed this proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(3) thereunder,<sup>5</sup> as one concerned solely with the administration of the self-regulatory organization, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The PCX is proposing to amend the PCX arbitration rules in order to make a minor rule numbering change. The text of the proposed rule change, as amended, is available on PCX's Web site (<http://www.pacificex.com>), at the principal office of the PCX, and at the Commission's Public Reference Section.

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

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared

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

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

<sup>3</sup> In Amendment No. 1, the PCX provided an additional statutory basis for this proposal.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(3).

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

##### Purpose

The Exchange proposes to make a minor rule numbering change to the PCX arbitration rules. In December 2004, the Exchange filed a proposed rule change with the Commission to amend the PCX Options and PCX Equities ("PCXE") arbitration rules with respect to arbitration fees that only affect OTP Holders, OTP Firms and ETP Holders.<sup>6</sup> As part of that filing, the Exchange proposed to adopt a Pre-Hearing and Hearing Process Fee in PCX Rule 12.33 and PCXE Rule 12.32(k). At this time, the Exchange proposes to renumber the PCX Options rule for Pre-Hearing and Hearing Process Fees from PCX Rule 12.33 to PCX Rule 12.31(k) so that the rule is similarly located for both PCX Options and PCX Equities. PCX Rule 12.31 contains the Schedule of Fees for arbitration proceedings. The Exchange believes the renumbering will provide consistency and ease of use for Exchange staff as well as the OTP Holders, OTP Firms, ETP Holders and the public. The Exchange does not propose any substantive changes to this rule or any rule renumbering changes for PCX Equities.

##### Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b)<sup>7</sup> of the Act, in general, and Section 6(b)(4) of the Act<sup>8</sup>, in particular, in that it provides for the equitable allocation of reasonable fees and charges among its OTP Holders, OTP Firms, ETP Holders, issuers and other persons using its facilities. The Exchange also believes the proposal, as amended, is consistent with Section 6(b)(5)<sup>9</sup> in that it is related to the administration of the Exchange because it reorganizes the Exchange's rules but does not change the substance of these rules.

#### 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

<sup>6</sup> See Exchange Act Release No. 51102 (January 28, 2005), 70 FR 6063 (February 4, 2005) (SR-PCX-2004-118).

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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, as amended, were neither solicited nor received.

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

The foregoing rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>10</sup> of the Act and subparagraph (f)(3) of Securities Exchange Act Rule 19b-4<sup>11</sup> thereunder as one concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed 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 Act.<sup>12</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2005-36 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-2005-36. 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, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 Section, 450 Fifth Street, NW., Washington, DC 20549. 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-2005-36 and should be submitted on or before May 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-1986 Filed 4-26-05; 8:45 am]

**BILLING CODE 8010-01-P**

**SOCIAL SECURITY ADMINISTRATION**

**Social Security Ruling, SSR 05-03p.; Title XVI: Determining Continuing Disability at Step 2 of the Medical Improvement Review Standard Sequential Evaluation Process for Children Under Age 18—Functional Equivalence**

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Social Security Ruling.

**SUMMARY:** In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 05-03p. This Ruling explains our policies for determining continuing disability at step 2 of the medical improvement review standard for children under 20 CFR 416.994a(b)(2).

**EFFECTIVE DATE:** April 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Judy Hicks, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, 4352 Annex Building, Baltimore, MD 21235-6401,

(410) 965-9119. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet Web site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated: April 21, 2005.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

**Policy Interpretation Ruling**

Title XVI: Determining Continuing Disability at Step 2 of the Medical Improvement Review Standard Sequential Evaluation Process for Children Under Age 18—Functional Equivalence.

**Purpose:** To explain our policies for determining continuing disability at step 2 of the medical improvement review standard (MIRS) sequential evaluation process for children under 20 CFR 416.994a(b)(2) and to explain how we apply the functional equivalence rule at step 2.

**Citations (Authority):** Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act; Regulations No. 16, subpart I, sections 416.924, 416.925, 416.926, 416.926a, and 416.994a.

**Introduction:** When we conduct a continuing disability review, we use a three-step MIRS sequential evaluation process, outlined in 20 CFR 416.994a(b).

<sup>10</sup> 5 U.S.C. § 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on April 18, 2005, when Amendment No. 1 was filed. See, supra, note 3.

<sup>13</sup> 17 CFR 200.30-3(a)(12).