

### Trading Hours

The trading hours for the Funds on the Exchange will be 9:30 a.m. to 4:15 p.m.

### 2. Statutory Basis

The NYSE believes that its proposal is consistent with section 6(b) of the Act<sup>28</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>29</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and national market system and, in general, to protect investors and the public interest.

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

The NYSE does not believe that the proposed rule change will impose any inappropriate burden on competition 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

The NYSE neither solicited nor received written comments on the proposed rule change.

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

Because the proposed rule change: (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 after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>30</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>31</sup> As required under Rule 19b-4(f)(6)(iii),<sup>32</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 the filing of the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not

become operative prior to 30 days after the date of filing.<sup>33</sup> However, Rule 19b-4(f)(6)(iii)<sup>34</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, the Exchange has requested that the Commission waive the 30-day operative delay and render the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the 30-day operative delay would enable investors to avail themselves immediately to trading opportunities in the Funds. In addition, the Commission notes that the Funds have been previously approved for trading on the NYSE.<sup>35</sup> Therefore, the Commission does not believe that the proposed rule change raises new regulatory issues. For the reasons stated above, the Commission designates the proposal to become operative on November 18, 2005.<sup>36</sup>

At any time within 60 days of the filing of the 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 the furtherance of the purposes 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-NYSE-2005-76 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 20549-9309.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> See *supra*, footnote 7.

<sup>36</sup> For purposes of waiving the operative date of this proposal only, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-NYSE-2005-76. 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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. 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-NYSE-2005-76 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>37</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52768; File No. SR-NYSE-2005-64]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change to Add Rules Regarding Time Tracking Requirements of Specialists and Specialist Organizations to Its Minor Rule Violation Plan

November 10, 2005.

On September 22, 2005, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act

<sup>37</sup> 17 CFR 200.30-3(a)(12).

<sup>28</sup> 15 U.S.C. 78f(b).

<sup>29</sup> 15 U.S.C. 78f(b)(5).

<sup>30</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>31</sup> 17 CFR 240.19b-4(f)(6).

<sup>32</sup> 17 CFR 240.19b-4(f)(6)(iii).

of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to amend its Minor Rule Violation Plan (“MRVP”) to include NYSE Rule 103.12, which requires specialists and specialist organizations to record and report the actual time spent working as a specialist or clerk while on the trading floor of the Exchange. The proposed rule change was published for comment in the **Federal Register** on October 7, 2005.<sup>3</sup> The Commission received no comments regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>4</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,<sup>5</sup> because a rule that is reasonably designed to encourage specialists and clerks to report accurately the time they work on the trading floor should help the Exchange carry out its supervisory responsibilities and thereby help protect investors and the public interest. The Commission also believes that handling violations of NYSE Rule 103.12 pursuant to the MRVP is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,<sup>6</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing NYSE Rule 476A provides procedural rights to a person fined under the MRVP to contest the fine and permits a hearing on the matter, the Commission believes the MRVP, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.<sup>7</sup>

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act<sup>8</sup> which governs minor rule violation plans. The Commission believes that the change to the MRVP will strengthen its ability to carry out its oversight and enforcement

responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with NYSE rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of any self-regulatory organization’s rules, as well as Commission rules, is a serious matter. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that NYSE will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires formal disciplinary action under NYSE Rule 476.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>9</sup> and Rule 19d–1(c)(2) under the Act,<sup>10</sup> that the proposed rule change (SR–NYSE–2005–64) be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jonathan G. Katz,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52769; File No. SR–PCX–2005–119]

### Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Regarding Clearly Erroneous Executions

November 10, 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 October

24, 2005, the Pacific Exchange, Inc. (“PCX” or “Exchange”), through its wholly owned subsidiary, PCX Equities, Inc. (“PCXE”), filed with 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 PCX. On October 27, 2005, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> On November 9, 2005, the Exchange submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> The Exchange filed the proposed rule change as a “non-controversial” rule change under Rule 19b–4(f)(6) under the Act,<sup>5</sup> which renders the proposal effective upon filing with the Commission.<sup>6</sup> 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 PCX, through PCXE, proposes to amend its rules governing the Archipelago Exchange, the equities trading facility of PCXE. This filing proposes to amend PCXE Rule 7.10 regarding clearly erroneous executions. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

\* \* \* \* \*

#### Rules of PCX Equities, Inc.

##### Rule 7 Equities Trading

##### Rule 7.10. Clearly Erroneous Executions

- (a)–(b) No change.  
(c) Review Procedures.  
(1) No change.

(2) If [a party] *an ETP Holder* affected by a determination made under this Rule so requests within the time permitted below, the Clearly Erroneous Execution Panel (“CEE Panel”) will review decisions made by the Officer under this Rule, including whether a clearly erroneous execution occurred and whether the correct adjustment was made; *provided however that the CEE Panel will not review decisions made by*

<sup>3</sup> Amendment No. 1 properly identified proposed rule text that had not been indicated as new text in the original filing.

<sup>4</sup> Amendment No. 2 corrected minor typographical errors and properly identified changes being made to existing rule text.

<sup>5</sup> 17 CFR 240.19b–4(f)(6).

<sup>6</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on November 9, 2005, the date on which the Exchange submitted Amendment No. 2. See 15 U.S.C. 78s(b)(3)(C).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 52550 (October 3, 2005), 70 FR 58770.

<sup>4</sup> In approving this 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>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>7</sup> 15 U.S.C. 78f(b)(7) and 78f(d)(1).

<sup>8</sup> 17 CFR 240.19d–1(c)(2).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 240.19d–1(c)(2).

<sup>11</sup> 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(44).

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

<sup>2</sup> 17 CFR 240.19b–4.