

For the Commission, by the Division of Market Regulations, pursuant to the delegated authority.<sup>4</sup>

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Deputy Secretary.

[FR Doc. 01-29930 Filed 12-3-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45112; File No. SR-NYSE-2001-47]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc. To Implement Three CRD Processing Fees and a One-Time System Transition Fee in Connection with the Administration of Forms U-4 and U-5

November 28, 2001.

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 6, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), 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 the NYSE. 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 proposed rule change implements three Web CRD processing fees and a one-time System Transition Fee charged to NYSE members and member organizations who are not members of the National Association of Securities Dealers, Inc. ("NASD") in connection with the administration and processing of Forms U-4 or U-5 through the Web CRD system.

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

In its filing with the Commission, NYSE included statements concerning the purpose of, and basis for, 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

Prior to November 13, 2000, Exchange members and member organizations who were not members of NASD were required to manually file Form U-4<sup>3</sup> and Form U-5<sup>4</sup> with the Exchange's Qualifications and Registrations Department. These members and member organizations primarily conduct business on the Floor of the Exchange and are not required to be registered with NASD.

Effective November 13, 2000, Exchange members and member organizations who are not members of the NASD are required to submit (in connection with NYSE Rules 345.12 and .18) Forms U-4 and U-5 through NASD Regulation, Inc.'s ("NASDR") Web CRD system ("Web CRD"). The filings are processed electronically through the Internet. Specific details regarding the filing procedures associated with this transition were published in NYSE Information Memo Number 00-25<sup>5</sup> dated October 13, 2000. Including associated persons of NYSE-only members and member organizations in Web CRD enables the Exchange to more efficiently perform its regulatory responsibilities for all members and member organizations and ultimately enhances investor protection.

The proposed rule change implements three processing fees and a one-time system transition fee imposed upon NYSE-only members and member organizations resulting from the Exchange's directive that registration filing be submitted to Web CRD. Members and member organizations will be instructed to pay the CRD processing fees directly to NASDR through Web CRD. NASDR will collect the appropriate fees directly to NASDR through Web CRD. NASDR will collect the appropriate processing fees at the time the NYSE member or member

<sup>3</sup> Uniform Application for Securities Industry Registration or Transfer.

<sup>4</sup> Uniform Termination Notice for Securities Industry Registration.

<sup>5</sup> A follow-up Information Memo will be issued to reaffirm the registration filing process for NYSE-only members and member organizations and to update the fee schedule. The NYSE submitted a draft Information Memorandum and Fee Schedule that reflected such registration process and updated fee schedule. E-mail dated November 21, 2001 from Mary Anne Furlong, Director, Rule and Interpretive Standards, NYSE, to John Riedel, Attorney Adviser, Division of Market Regulation ("Division"), to Commission.

organization effects a registration transaction through Web CRD.

The three processing fees are the same as those charged dual NYSE/NASD registrants, and are as follows:

First, the proposed rule change implements an \$85 CRD Processing Fee charged for all Initial, Transfer, and Re-licensure Form U-4 filings. This fee, combined with current, corresponding NYSE fees, will bring the total amount paid to NASDR for Initial Individual Registration to \$150 (\$65 NYSE Standard Application Fee + \$85 CRD Processing Fee). The total amount paid for Transfer and Re-licensing will amount to \$128 (\$43 NYSE Standard Application Fee + \$85 CRD Processing Fee). The NYSE Application Fees of \$65 (for Initial Individual Registration) and \$43 (for Transfers and for Re-licensing) will be passed on to the NYSE by NASDR.<sup>6</sup> This is the same process and fee structure that already applies to dual NASD/NYSE members and member organizations filing through Web CRD.

Second, the proposed rule change implements a \$95-CRD Disclosure Processing Fee charged in connection with Forms U-4 and U-5 for all filings with new or amended disclosure information. (There is no corresponding NYSE fee.)

Thirdly, the proposed rule change implements an annual \$30 CRD System Processing Fee. Therefore, the total annual processing/maintenance cost per registered person will be \$82, which includes the current \$52 NYSE annual maintenance fee that will be passed on to the NYSE.<sup>7</sup>

In addition to the fees outlined above, sole NYSE members and member organizations will be required to pay a one-time System Transition Fee of \$115 per registered person as of December 31, 2001, payable January, 2002.<sup>8</sup>

##### 2. Statutory Basis

The statutory basis for the proposed rule change in section 6(b)(4) of the Act<sup>9</sup> that permits the rules of an

<sup>6</sup> These fees offset the costs to the NYSE for the review and processing of all applications. Telephone call between Mary Anne Furlong, Director, Rule and Interpretive Standards, NYSE, and John Riedel, Attorney Adviser, Division, Commission, dated November 20, 2001.

<sup>7</sup> This is an annual maintenance fee to cover costs associated with the registration program. Telephone call between Mary Anne Furlong, Director, Rule and Interpretive Standards, NYSE, Elizabeth Badaway, Accountant, Division, Commission, and Terri Evans, Assistant Director, Division, Commission, dated November 26, 2001.

<sup>8</sup> This is a fee payable to the NASD to cover special arrangements for NYSE-only members filing through Web CRD. Telephone call between Mary Anne Furlong, Division, Commission, and Terri Evans, Assistant Director, Division, Commission, dated November 26, 2001.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>4</sup> 17 CFR 200.30-3(a)(12).

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

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

exchange to provide for the equitable allocation of reasonable dues, fees and other charges among the members, issuers and other persons using its facilities.

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

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

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

The Exchange has designated the proposed rule change as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f) of Rule 19b-4 thereunder.<sup>11</sup> Accordingly, the proposed rule change has become effective upon filing. 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 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. 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 such filing will also be

available for inspection and copying at the principal office of NYSE. All submissions should refer to the File Number SR-NYSE-2001-47 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-29987 Filed 12-3-01; 8:45 am]

**BILLING CODE 8010-01-M**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-45105; File No. SR-PCX-2001-44]**

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Registered Representative Fees**

November 26, 2001.

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 6, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. On November 20, 2001, the PCX submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 to 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 its Schedule of Fees and Charges by increasing its Registered Representative Fee. The text of the proposed rule change is available at the Office of the Secretary, PCX, and at the Commission.

<sup>12</sup> 17 CFR 200.3-3(a)(12).

<sup>11</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See letter from Michael D. Pierson, Vice President, Regulatory Policy, PCX, to John S. Polise, Senior Special Counsel, Division of Market Regulation, Commission, dated November 19, 2001 ("Amendment No. 1"). In Amendment No. 1, the PCX made a correction to its proposal to reflect that the fee increase is from \$45 to \$50.

#### **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 currently charges a \$45 annual fee for new applications, maintenance and transfer of registration status for each Registered Representative and each Registered Options Principal whose firm is a member firm of the Exchange.<sup>4</sup> The Exchange is now proposing to increase this fee to \$50.<sup>5</sup> The Exchange believes this fee change is warranted based upon the Exchange's increased costs relating to its regulatory oversight and enforcement program. The Exchange notes that initial, transfer, and maintenance Registered Representative registration fees traditionally have been billed and collected by the NASD. Under the proposal, the NASD will continue to bill for and collect these fees.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)<sup>6</sup> of the Act, in general, and Section 6(b)(4),<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues,

<sup>4</sup> The PCX's increase in this fee to \$45 became effective in July 2001. See Securities Exchange Act Release No. 44571 (July 18, 2001), 66 FR 38774 (July 25, 2001) (Notice of Filing and Immediate Effectiveness of SR-PCX-2001-21).

<sup>5</sup> The Exchange notes that two other exchanges have recently increased their registration fees, annual fees and transfer fees for Registered Representatives and Registered Options Principals. See Securities Exchange Act Release No. 44947 (October 17, 2001), 66 FR 53822 (October 24, 2001) (Notice of Filing and Immediate Effectiveness of SR-Phlx-2001-90); and Securities Exchange Act Release No. 44597 (July 26, 2001), 66 FR 40302 (August 2, 2001) (Notice of Filing and Immediate Effectiveness of SR-CBOE-2001-37).

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

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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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