

has become effective pursuant to section 19(b)(3)(A) of the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup> Nasdaq requests that the Commission waive both the 5-day notice and 30-day pre-operative requirements contained in Rule 19b-4(f)(6)(iii).<sup>20</sup> Nasdaq believes good cause exists to grant such waivers because of the importance of short sale regulation to the protection of investors and the fact that the pilot programs will each expire if not extended. Nasdaq will implement this rule change immediately.

The Commission believes that waiving the 5-day notice and 30-day pre-operative delay is consistent with the protection of investors and the public interest. The Commission believes that accelerating the operative date does not raise any new regulatory issues, significantly affect the protection of investors or the public interest, or impose any significant burden on competition. For these reasons, the Commission designates the proposed rule change as effective and operative immediately.

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, 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.

#### 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-NASD-2004-092 on the subject line.

<sup>18</sup> See *supra* note 16.

<sup>19</sup> See *supra* note 17.

<sup>20</sup> Under subparagraph (f)(6)(iii) of Rule 19b-4, the proposal may 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, and the self-regulatory organization must file notice of its intent to file the proposed rule change at least five business days beforehand. 17 CFR 240.19b-4(f)(6)(iii).

##### *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-NASD-2004-092. 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, 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 NASD. 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-NASD-2004-092 and should be submitted on or before September 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E4-1918 Filed 8-24-04; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>21</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50210; File No. SR-PCX-2004-79]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to the Corporate Restructuring and Initial Public Offering of Archipelago Holdings, Inc.

August 18, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on August 10, 2004, the Pacific Exchange, Inc. ("PCX" or "Exchange"), through its wholly owned subsidiary PCX Equities, Inc. ("PCXE"), 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 Exchange. On August 16, 2004, the PCX amended the proposed rule change.<sup>3</sup> The PCX filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which designates the proposed rule change as constituting a "non-controversial" rule change and that 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, as amended, 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 PCXE Rule 14.3 in order to reflect the corporate name change that resulted from the corporate restructuring of Archipelago Holdings, L.L.C. into Archipelago Holdings, Inc. and the subsequent initial public offering of Archipelago Holdings, Inc.

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

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

<sup>3</sup> See letter from Steven B. Matlin, Senior Counsel, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 13, 2004 ("Amendment No. 1"). Amendment No. 1 replaced the original rule filing in its entirety.

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

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> For purposes of determining the effective date and calculating the sixty-day period within which the Commission may summarily abrogate the proposed rule change under section 19(b)(3)(C) of the Act, the Commission considers that period to commence on August 16, 2004, the date the PCX filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

Proposed new language is in *italics*; proposed deletions are in [brackets].

\* \* \* \* \*

Rules of PCX Equities, Inc.

Rule 14

\* \* \* \* \*

Plan of Delegation of Functions by the Pacific Exchange, Inc. to PCX Equities, Inc.

\* \* \* \* \*

Archipelago Exchange, L.L.C. and Archipelago Holdings, [L.L.C.] *Inc.*

Rule 14.3(a)—No Change.

(b)—Access to and Status of Officers and Directors of Archipelago Holdings, [L.L.C.] *Inc.* All officers and directors of Archipelago Holdings, [L.L.C.] *Inc.*, shall be deemed to be officers and directors of PCX and PCX Equities for purposes of and subject to oversight pursuant to the Securities Exchange Act.

(c)—No Change.

(d)—Location of Books and Records. Archipelago Exchange, L.L.C., and Archipelago Holdings, [L.L.C.] *Inc.* must maintain all books and records related to the Archipelago Exchange within the United States.

(e)—Confidentiality Requirements. The officers and directors of Archipelago Holdings, [L.L.C.] *Inc.* shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between PCX (including the facilities of PCX Equities) and the functions of WAVE that are not regulated as facilities of PCX Equities. In addition, PCX and PCX Equities shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Archipelago Exchange facility (including the functions of WAVE that are deemed a facility of PCX Equities) and the functions of WAVE as an introducing broker/residual electronic communications network.

(f)—No Change.

\* \* \* \* \*

## 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 is proposing to amend PCXE Rule 14.3 to make administrative changes necessary as a result of the corporate restructuring of Archipelago Holdings, L.L.C. into Archipelago Holdings, Inc. and the subsequent initial public offering of Archipelago Holdings, Inc. Archipelago Holdings, Inc. is the entity that will succeed Archipelago Holdings, L.L.C. as the sole parent of the current equities trading facility of PCX and PCXE, the Archipelago Exchange, L.L.C. Thus, the Exchange proposes to amend PCXE Rule 14.3 to replace the term "Archipelago Holdings, L.L.C." with the term "Archipelago Holdings, Inc."

#### 2. Statutory Basis

The Exchange believes that this filing is consistent with section 6(b) <sup>7</sup> of the Act, in general, and furthers the objectives of section 6(b)(1),<sup>8</sup> in particular, in that it enables the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and (subject to any rule or order of the Commission pursuant to section 17(d) or 19(g)(2) of the Act) to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this filing furthers the objectives of section 6(b)(5),<sup>9</sup> in particular, because the rule is designed to help prevent fraudulent and manipulative acts and practices; to promote just and equitable principals of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

<sup>8</sup> 15 U.S.C. 78f(b)(1).

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

### 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

No written comments were solicited or received.

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

The foregoing rule change, as amended, has been filed by the Exchange pursuant to Section 19(b)(3)(A) of the Act <sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup> 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) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. Therefore, the foregoing rule change, as amended, has become effective pursuant to Section 19(b)(3)(A) of the Act <sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> 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 the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

Pursuant to Rule 19b-4(f)(6)(iii) under the Act,<sup>14</sup> the proposal may 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, and the self-regulatory organization must file notice of its intent to file the proposed rule change at least five business days beforehand. The Exchange provided the Commission with notice of its intent to file the proposed rule change at least five days before filing the amended proposal with the Commission.<sup>15</sup> The Exchange has

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

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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> The Commission deems the initial filing of SR-PCX-2004-79 received by the Commission on August 10, 2004 to be the required pre-filing notice

requested that the Commission waive the 30-day operative delay so that the proposed rule change will become immediately effective upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission believes that the proposed rule change, as amended, will allow the rules of the Exchange to accurately reflect the fact that Archipelago Holdings, Inc. has succeeded Archipelago Holdings, L.L.C. as the sole parent of the current equities trading facility of PCX and PCXE, the Archipelago Exchange, L.L.C. In addition, the proposed rule change will make no substantive changes to the Exchange's rule. For these reasons, the Commission designates the proposed rule change as effective and operative immediately.

#### 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-2004-79 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-2004-79. 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, 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-2004-79 and should be submitted on or before September 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E4-1919 Filed 8-24-04; 8:45 am]

**BILLING CODE 8010-01-P**

## DEPARTMENT OF STATE

[Public Notice 4804]

### Culturally Significant Objects Imported for Exhibition Determinations: "The Aztec Empire"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "The Aztec Empire," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at The Solomon R. Guggenheim Museum, New York, NY from on or about October 14, 2004 to on or about February 13, 2005, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: (202) 619-5997). The address is Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 17, 2004.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 04-19469 Filed 8-24-04; 8:45 am]

**BILLING CODE 4710-08-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending August 13, 2004

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2004-18873.

*Date Filed:* August 10, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC2 EUR-ME 0187 dated 9 July 2004. TC2 Europe-Middle East Resolutions r1-r22. *Minutes:* PTC2 EUR-ME 0192 dated 10 August 2004. *Tables:* PTC2 EUR-ME Fares 0093 dated 9 July 2004. *Corrects:* PTC2 EUR-ME Fares 0094 dated 23 July 2004. *Intended effective date:* 1 January 2004.

*Docket Number:* OST-2004-18901.

*Date Filed:* August 13, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC1 0298 dated 13 August 2004. TC1 Longhaul (except between USA and Chile, Panama) Expedited Resolution. PTC1 0299 dated 13 August 2004. TC1 Within South America Expedited Resolutions r1-r4. *Intended effective date:* 15 September 2004.

*Docket Number:* OST-2004-18902.

*Date Filed:* August 13, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC3 0774 dated 13 August 2004. Mail Vote 402—Resolution 010t—Special Passenger Amending Resolution between Chinese Taipei and Japan r1—

set forth in Rule 19b-4(f)(6)(iii) under the Act, 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> 17 CFR 200.30-3(a)(12).