

agreement with the NYSE that grants the Exchange the right to, among other things, list options on ETFs based on indexes developed by the NYSE. The Exchange is listing two such products—the iShares NYSE 100 Index Fund (symbol: NY), and the iShares NYSE Composite Index Fund (symbol: NYC). The Exchange believes that adopting the surcharge fee for transactions in these products is the best way to off-set the license fee for these products.

Furthermore, the Exchange proposes to delete references to the following expired fee waivers: a Market Maker and Firm Proprietary Execution Fee waiver for Firm Proprietary trades in the iShares S&P 100 Index Fund through June 30, 2004; and a Surcharge for Firm Proprietary trades in the iShares S&P 100 Index Fund through June 30, 2004. The Exchange also proposes to delete references to the following delisted products: GS \$ InvesTop Index, Technology Select Sector SPDR Fund (XLK), Utilities Select Sector SPDR Fund (XLU), Health Care Select Sector SPDR Fund (XLV), Industrial Select Sector SPDR Fund (XLI), Consumer Discretionary Select Sector SPDR Fund (XLY), Materials Select Sector SPDR Fund (XLB), Consumer Staples Select Sector SPDR Fund (XLP); Russell 2000 Value iShares (IWN), Russell 1000 Growth iShares (IWF), Russell 1000 Value iShares (IWD), Russell Midcap Index Fund iShares (IWR), Russell 3000 Value Index Fund iShares (IWW), Russell 3000 Growth Index Fund iShares (IWZ), Russell Midcap Growth Index Fund iShares (IWP), Russell Midcap Value Index Fund iShares (IWS), Russell 1000 Index Fund iShares (IWB), and Russell 3000 Index Fund iShares (IWW).<sup>13</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of the Act<sup>15</sup> in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, except in the case of the surcharge fee (which is, however, consistent with the Exchange's treatment of other licensed products), these fees generally would eliminate, reduce, waive, or rebate fees.

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

The ISE 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*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>16</sup> and Rule 19b-4(f)(2)<sup>17</sup> thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing the amended proposal with the Commission. At any time within 60 days of the filing of such amended proposed rule change, the Commission may summarily abrogate such rule change, as amended, 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.<sup>18</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-ISE-2004-32 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission,

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>18</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the proposal to have been filed on November 8, 2004, the date the ISE filed Amendment No. 1.

450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-ISE-2004-32. 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. Copies of this filing also will be available for inspection and copying at the principal office of the ISE. 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-ISE-2004-32 and should be submitted on or before December 10, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-3255 Filed 11-18-04; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-50662; File No. SR-PCX-2004-102]**

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Notification Requirements for Offerings of Securities Pursuant to Regulation M**

November 15, 2004.

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

<sup>19</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.

<sup>13</sup> See Amendment No. 1, *supra* note 3.

<sup>14</sup> 15 U.S.C. 78s(b).

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

29, 2004, 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 the self-regulatory organization. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders 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 equities trading facility of PCXE. With this filing, PCX is proposing a new rule PCXE Rule 5.2(b)(1), which would require an Equity Trading Permit Holder ("ETP Holder") that participates in any offering of securities listed on the Exchange to submit certain information to PCXE regarding the offering. Proposed additions are italicized.

#### *Rule 5.2(b)(1) Notification Requirements for Offering of Securities*

(A) *An ETP Holder which acts as the lead underwriter of any offering in a security, shall notify the Exchange of such offering in such form and within such time frame as may be prescribed by the Exchange and shall provide the following information:*

- (1) *Name of security*
  - (2) *Symbol*
  - (3) *Type of security*
  - (4) *Number of shares offered*
  - (5) *Offering price*
  - (6) *Date of pricing*
  - (7) *Time of pricing*
  - (8) *Pricing basis*
  - (9) *Beginning and ending dates of the restricted period under Regulation M (if applicable)*
  - (10) *Syndicate ETP Holders*
  - (11) *Firm submitting notification*
  - (12) *Name of individual submitting notification*
  - (13) *Telephone number of individual submitting notification*
  - (14) *Such other information required by the Exchange from time to time*
- (B) *Any ETP Holder effecting a syndicate covering transaction or*

*imposing a penalty bid or placing or transmitting a stabilizing bid in a security shall provide prior notice of such to the Exchange in such format and within such time frame as the Exchange may from time to time require.*

### **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 self-regulatory organization 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 self-regulatory organization 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 purpose of this proposed rule is to require that ETP Holders provide the Exchange information necessary to support appropriate surveillance over restricted trading activity on ArcaEx in accordance with Regulation M.<sup>5</sup> Regulation M is intended to preclude manipulative conduct by persons with an interest in the outcome of an offering by proscribing certain activities of underwriters, issuers, selling security holders, and others in connection with offerings of securities. Pursuant to proposed PCXE Rule 5.2(b)(1), the required information shall be submitted to the Exchange in such form and within such time frame as prescribed by the Exchange.

Each ETP Holder that participates in an offering of securities listed on the Exchange shall notify the Exchange of such offering and shall provide the Exchange with the following information:

- a. Name of Security
- b. Symbol
- c. Type of Security
- d. Number of Shares Offered
- e. Offering Price
- f. Date of Pricing
- g. Time of Pricing
- h. Pricing Basis
- i. Beginning and Ending dates of the restricted period under Regulation M (if applicable)

- j. Syndicate ETP Holders
- k. Firm submitting notification
- l. Name of individual submitting notification
- m. Telephone number of individual submitting notification
- n. Such other information required by the Exchange from time to time

In addition, any ETP Holder effecting a syndicate covering transaction or imposing a penalty bid or placing or transmitting a stabilizing bid in a security shall provide prior notice of such to the Exchange in such format and within such time frame as the Exchange may from time to time require.

The submission of this information to the Exchange will allow the Exchange to monitor trading in the security in question or any reference security traded on the Exchange for possible price manipulation.

##### (2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>6</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>7</sup> in particular, because it is designed to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market 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) does not become operative for 30 days from the date on which it was filed, or such shorter time as the

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

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

<sup>5</sup> 17 CFR 242.100.

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

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

Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>9</sup> At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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. The PCX provided the Commission with written notice of its intent to file this proposed rule change at least five business days prior to the date of filing the proposed rule change.

#### 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-PCX-2004-102 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-2004-102. 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-2004-102 and should be submitted on or before December 10, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-3256 Filed 11-18-04; 8:45 am]

**BILLING CODE 8010-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Notice of Intent To Rule on Application (05-04-C-00-FNL) To Impose and To Use a Passenger Facility Charge (PFC) at the Fort Collins-Loveland Municipal Airport, Submitted by the Cities of Fort Collins and Loveland, CO**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use a PFC at the Fort Collins-Loveland Municipal Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before December 20, 2004.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Craig Sparks, Manager, Denver Airports District Office, DEN-ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, Colorado 80249-6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David C. Gordon, A.A.E., at the following address: Ft. Collins-Loveland Municipal Airport, 4900 Earhart Road, Loveland, Colorado 80538.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Fort Collins-Loveland Municipal Airport, under section 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Schaffer, (303) 342-1258; Denver Airports District Office, DEN-ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, Colorado 80249-6361. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application (05-04-C-00-FNL) to impose and use a PFC at the Fort Collins-Loveland Municipal Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 10, 2004, the FAA determined that the application to impose and use a PFC submitted by the City of Fort Collins and the City of Loveland, Colorado, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 9, 2005.

The following is a brief overview of the applications.

*Level of the proposed PFC:* \$4.50.

*Proposed charge effective date:* March 1, 2005.

*Proposed charge expiration date:* November 1, 2007.

*Total requested for use approval:* \$315,329.

*Brief description of proposed projects:* Phase II and Phase III Rehabilitation of Runway 15/33 including installation of distance remaining signs and runway end identifier lights; fog seal and mark Runway 15/33; and replace airfield lighting controls.

*Class or classes of air carriers that the public agency has requested not be required to collect PFC's:* None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Fort Collins-Loveland Municipal Airport.

Issued in Renton, Washington, on November 10, 2004.

**David A. Field,**

*Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.*

[FR Doc. 04-25701 Filed 11-18-04; 8:45 am]

**BILLING CODE 4910-13-M**

<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 200.30-3(a)(12).