

SR-PCX-2002-46 and should be submitted by August 28, 2002.

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

Margaret H. McFarland,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46293; File No. SR-PCX-2002-42]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Adopt a Tape Revenue Sharing Program for Certain Transactions on the Exchange in Tape B Securities

August 1, 2002.

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 July 10, 2002, 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 the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CHX under section 19(b)(3)(A)(ii) of the Act,<sup>3</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 proposes to modify its fee schedule for services provided to ETP Holders and Sponsored Participants<sup>4</sup> on the Archipelago Exchange, the equities trading facility of PCXE. The text of the proposed rule change is below. Proposed additions are in *italics*.

#### SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

*	*	*	*	*	*	*	*	*	*
Archipelago Exchange:	Other Fees and								
Charges									
Market Data Revenue Sharing Credit									
Liquidity Provider Credit .....									
Directed Order .....									
Cross Order .....									
*	*	*	*	*	*	*	*	*	*

*50% tape revenue credit per qualifying trade (applicable to limit orders that are residing in the Book and that execute against inbound marketable orders in Tape B securities).*

*50% tape revenue credit per qualifying trade (applicable to any market maker that executes against a Directed Order in a Tape B security within the Directed Order Process, as defined in PCXE Rule 7.37(a)).*

*50% tape revenue credit per qualifying trade (applicable to any Cross Order, as defined in PCXE Rule 7.31(s), where the ETP Holder or Sponsored Participant represents all of one side of the transaction and all or a portion of the other side in a Tape B security).*

#### 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 PCX included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The PCX 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 proposes to amend its fees charged to ETP Holders and Sponsored Participants (collectively "Users") that access the Archipelago Exchange ("ArcaEx") trading facility by adopting a mechanism for sharing with Users market data revenue derived from transactions in Tape B securities.<sup>5</sup>

The Exchange proposes to share a portion of its gross revenues derived

from market data fees (*i.e.*, tape revenue) with (i) any User that provides liquidity in a Tape B security by entering a resting limit order into the ArcaEx Book that is then executed against an incoming marketable order within the Display Order, Working Order, or Tracking Order processes; (ii) any Market Maker that executes against a Directed Order in a Tape B security within the Directed Order Process;<sup>6</sup> and (iii) any User that represents all of one side and all or a portion of the other side of a Cross Order<sup>7</sup> execution in a Tape B security (individually, "Qualifying Transaction" and

which is a market or limit order to buy or sell that has been directed to the particular market maker by the User. See PCXE Rule 7.37(a) (description of "Directed Order Process").

<sup>7</sup> A Cross Order is defined as a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the cross price), subject to price improvement requirements. See PCXE Rule 7.31(s).

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

<sup>4</sup> A "Sponsored Participant" means "a person which has entered into a sponsorship arrangement with a Sponsoring ETP Holder pursuant to [PCXE] Rule 7.29." See PCXE Rule 1.1(tt).

<sup>5</sup> Tape B securities include: (a) securities that are listed for trading on the American Stock Exchange; and (b) certain other securities that are deemed to be eligible for such listing.

<sup>6</sup> The Directed Order Process is the first step in the ArcaEx execution algorithm. Through this Process, Users may direct an order to a Market Maker with whom they have a relationship and the Market Maker may execute the order. To access this process, the User must submit a Directed Order,

collectively, "Qualifying Transactions"). Under the proposal, any User that meets the requirements stated above will receive a 50 percent (50%) tape revenue credit per Qualifying Transaction that is reported over the Consolidated Tape Association's Tape B Network.

The proposed tape revenue credit is intended to create additional incentives to participants to provide liquidity on the ArcaEx facility.

## 2. Statutory Basis

The Exchange believes the proposal is consistent with the requirements of section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of section 6(b)(4),<sup>9</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

### *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 proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>11</sup> because it establishes or changes a due, fee, or other charge. 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 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 proposal 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 the PCX. All submissions should refer to file number SR-PCX-2002-42 and should be submitted by August 28, 2002.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-262]

### WTO Dispute Settlement Proceeding Regarding U.S. Sunset Reviews of Antidumping and Countervailing Duties on Steel Products From France and Germany

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative ("USTR") is providing notice that, on July 25, 2002, the United States received from the European Communities ("EC") a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding antidumping and countervailing duties imposed by the United States on imports of corrosion-resistant carbon steel flat products ("corrosion-resistant steel") from France and Germany and imports of cut-to-length carbon steel plate ("cut-to-length steel") from Germany. The EC alleges that the sunset review determinations made by U.S. authorities concerning these products, and certain related matters, are inconsistent with Articles 1, 2, 3, 5, 6 (including Annex II), 11.1, 11.3, 11.4, 18.3 and 18.4 of the

Agreement on Implementation of Article VI of the General Agreements on Tariffs and Trade 1994 ("AD Agreement"), Articles 10, 11, 12, 15, 21.1, 21.3, 21.4, 32.3 and 32.5 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement"), Articles VI and X of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article XVI:4 of the WTO Agreement. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before August 30, 2002, to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [ecsunset@ustr.gov](mailto:ecsunset@ustr.gov), Attn: "EC Sunset Dispute" in the subject line, or (ii) by mail, to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, 20508, Attn: EC Sunset Dispute, with a confirmation copy sent electronically to the address above, or by fax to (202) 395-3640.

**FOR FURTHER INFORMATION CONTACT:** William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding ("DSU"). If such consultation should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

### Major Issues Raised by the EC

With respect to the measures at issue, the EC request for consultations refers to the following:

- The final results of the sunset reviews by the DOC of the antidumping duty order on corrosion-resistant steel

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

<sup>9</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)(2).

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