

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-CHX-2005-16 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-CHX-2005-16. 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, as amended, 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 the filing also will be available for inspection and copying at the principal offices of the Exchange. 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-CHX-2005-16 and should be submitted on or before September 8, 2005.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4507 Filed 8-17-05; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-52248; File No. SR-CHX-2004-25]

### **Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Amendment No. 3 to a Proposed Rule Change Relating to a Prohibition on Using a Layoff Service Unless the Service Provides Required Information to the Exchange**

August 12, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 12, 2005, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") Amendment No. 3 to a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The proposed rule change was originally filed on August 31, 2004 and was amended by Amendment No. 1, filed on June 7, 2005, and Amendment No. 2, filed on June 27, 2005. The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for notice and comment in the **Federal Register** on July 12, 2005.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended by Amendment No. 3, from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is amending its proposal to prohibit Exchange Participants from using any communications means to send orders to another market for execution (a "layoff service") unless that layoff service has established a process for providing the Exchange with specific information about the orders and the executions that participants receive. This amendment changes the proposed effective date contained in the proposed rule text from August 1, 2005 to September 30, 2005.

#### **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 CHX included statements concerning

the purpose of and basis for the proposed rule changes 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 CHX 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 Changes*

##### **1. Purpose**

As noted in the original filing, the Exchange is proposing to amend its rule relating to communications from the trading floor to provide the Exchange with the layoff service information that it needs to enhance its surveillance programs. Through this Amendment No. 3, the Exchange is seeking to revise the proposed effective date of its proposed rule to September 30, 2005. The Exchange believes that this later effective date will better allow all of its Participants and their layoff vendors to be able to comply with the proposed rule in a timely manner on its effective date.

##### **2. Statutory Basis**

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>4</sup> The CHX believes the proposal is consistent with Section 6(b)(5) of the Act<sup>5</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest by permitting the Exchange to require its participants (or their layoff service providers) to provide the Exchange with data necessary to conduct appropriate surveillance of its participants' trading activities.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

<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. 51967 (July 1, 2005), 70 FR 40086 (July 12, 2005) ("First Notice").

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

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

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

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

No written comments were either solicited or received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

**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 by Amendment No. 3, 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-CHX-2004-25 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 20549-9303.

All submissions should refer to File No. SR-CHX-2004-25. 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 changes 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 CHX. 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 No. SR-CHX-2004-25 and should be submitted on or before September 8, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-4509 Filed 8-17-05; 8:45 am]

BILLING CODE 8010-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-52249; File No. SR-PCX-2005-90]

**Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Certificate of Incorporation of PCX Holdings, Inc., PCX Rules and Bylaws of Archipelago Holdings, Inc.**

August 12, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 1, 2005, the Pacific Exchange, Inc. ("PCX" or the "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 Exchange.<sup>3</sup> On August 10, 2005, the Exchange filed Amendment No. 1 ("Amendment No. 1") to the proposed rule change.<sup>4</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**

PCX submitted to the Commission (i) a proposed amendment to the certificate of incorporation of PCX Holdings, Inc. ("PCXH"), the parent company of the Exchange and its other operating subsidiaries, (ii) proposed new PCX Rules 1.1(cc) through (gg), Rule 3.4 and Rule 13.2(a)(2)(E),<sup>5</sup> which are intended to govern the ownership and voting of the stock of Archipelago Holdings, Inc. ("Archipelago"), a Delaware corporation that operates the equities trading facility of PCX and PCX Equities, Inc. ("PCXE"), by OTP Holders and OTP Firms,<sup>6</sup> and (iii) a proposed amendment to the bylaws of Archipelago ((i), (ii) and (iii) together, the "Proposed Rule Changes"). The text of the Proposed Rule Changes is available on PCX's Web site, <http://www.pacificex.com/>, at PCX's Office of the Secretary, at the Commission's Public Reference Room, and on the Commission's Web site, <http://www.sec.gov/rules/sro.shtml>.

**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.

<sup>5</sup> See Amendment No. 1.

<sup>6</sup> PCX rules define an "OTP Holder" to mean any natural person, in good standing, who has been issued an Options Trading Permit ("OTP") by the Exchange for effecting approved securities transactions on the Exchange's trading facilities, or has been named as a Nominee. PCX Rule 1.1(q). The term "Nominee" means an individual who is authorized by an "OTP Firm" (a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing who holds an OTP or upon whom an individual OTP Holder has conferred trading privileges on the Exchange's trading facilities) to conduct business on the Exchange's trading facilities and to represent such OTP Firm in all matters relating to the Exchange. PCX Rule 1.1(n).

<sup>6</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> At the request of PCX, the Commission made clarifications to the description in Item II, as noted herein. Telephone conversations between Kathryn Beck, Deputy General Counsel, PCX and Jennifer Dodd, Special Counsel, Commission, Division of Market Regulation on August 4, 2005 ("August 4, 2005 Telephone Conversation") and August 12, 2005 ("August 12, 2005 Telephone Conversation").

<sup>4</sup> In Amendment No. 1, the Exchange made certain corrections to the descriptions in Items I, II and III and the proposed rule text.