SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52026; File No. SR–NYSE–2005–26]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto To Extend the Closing Time of Crossing Session II, and To Amend Its Crossing Sessions III and IV To Eliminate the Share Size Restriction and the Process by Which an Order Is Executed if There Is No Execution Prior to 4 p.m.

July 13, 2005.

On April 8, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend rules governing its Off-Hours Trading Facility (''OHTF''), Crossing Sessions II, III, and IV, in particular. On May 19, 2005, NYSE filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change as amended, was published for comment in the **Federal Register** on June 8, 2005.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The NYSE proposes to amend rules governing its OHTF. The proposed rule change would (1) extend the closing time of Crossing Session II from 6:15 p.m. to 6:30 p.m., and (2) amend rules governing Crossing Sessions III and IV to (i) eliminate the 10,000 share size restriction for both types of orders in Crossing Sessions III and IV, and (ii) provide that if there is no execution prior to 4 p.m, the entire order would be eligible for execution in the crossing session, rather than just the portion of the customer's order that could not be executed prior to 4 p.m.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [5] and, in particular, the requirements of section 6 of the Act [6] and the rules and regulations thereunder. Specifically, the Commission finds the proposal to be consistent with section 6(b)(5) of the Act,[7] in that is designed to promote just and equitable principles of trade, 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.

The Commission believes that the changes should enhance the usefulness and practicality of Crossing Session II by making it available to member organizations for a greater time period and making its closing time consistent with the closing time of Crossing Sessions III and IV. Additionally, the Commission believes that the elimination of the size restriction for orders in Crossing Sessions III and IV should increase the availability of these sessions to member organizations.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSE–2005–26), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 05–14235 Filed 7–19–05; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made clarifying changes to the Purpose section of the filing.

[4] *See* Securities Exchange Act Release No. 51747 (May 26, 2005), 70 FR 33571 (June 8, 2005) (SR–NYSE–2005–26).

[5] In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52024; File No. SR–PCX–2005–82]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Exchange Fees and Charges

July 13, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 28, 2005, the Pacific Exchange, Inc. (''PCX'' 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 Exchange. The PCX has designated this proposal as one changing a fee imposed by the PCX under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] 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 PCX proposes to amend its Schedule of Fees and Charges For Exchange Services (''Schedule'') in order to modify the Exchange's marketing fee program. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

Rules of the Pacific Exchange, Inc.

* * * * *

PCX OPTIONS: TRADE-RELATED CHARGES

MARKETING CHARGE—For Nasdaq-100 Tracking Stock Options (QQQQ) $0.95 per contract side on all Market Maker transactions (excluding Market Maker to Market Maker transactions) and for Standard and Poor's Depository Receipts (SPY) $1.00 per contract side on all Market Maker transactions (excluding Market Maker to Market Maker transactions). For all other PCX Equity Options: $0.[60]45 per contract side on transactions of Lead Market Makers and Market Makers against *all public* customer orders [from payment accepting firms in the Exchange program].

[Cap on Marketing Charge—$200 per trade except for trades of Standard and Poor's Depository Receipts SPY and QQQQ. There is no cap on marketing charges for trades of SPY and QQQQ.]

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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 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 PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).