

it previously approved the listing and trading of the Shares of all of the Funds on the Amex and the trading, pursuant to UTP, of the Original Funds on the Exchange.<sup>21</sup> The Commission also finds that the proposal is consistent with Rule 12f-5 under the Act,<sup>22</sup> which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. NYSEArca rules deem the Shares to be equity securities, thus trading in the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>23</sup> which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In connection with the Exchange's UTP of the Shares of the Subsequent Funds, the Exchange will cease trading in the Shares if: (1) The listing market stops trading the Shares because of a regulatory halt similar to NYSE Arca Equities Rule 7.12 or a halt because the Indicative Partnership Value or the value of the applicable Underlying Index is no longer available (at least every 15 seconds during the trading day), or the NAV is not disseminated to all market participants at the same time, or (b) the listing market delists the Shares. Additionally, the Exchange may cease trading the Shares if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

In support of the portion of the proposed rule change regarding UTP of the Shares, of the Original Funds, the Exchange has made the following representations:

1. The Exchange has appropriate rules to facilitate transactions in this type of security in all trading sessions.

2. The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange.

3. The Exchange will distribute an Information Bulletin to its members prior to the commencement of trading of the Shares on the Exchange that

explains the special characteristics and risks of trading the Shares.

4. The Exchange will require a member with a customer who purchases newly issued Shares on the Exchange to provide that customer with a product prospectus and will note this prospectus delivery requirement in the Information Bulletin.

5. The Exchange will cease trading in the Shares if (1) the listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12 and/or a halt because the Indicative Partnership Value or the value of the applicable Underlying Index is no longer available at least every 15 seconds or the NAV is not disseminated to all market participants at the same time, or (2) the listing market delists the Shares.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for partially approving the remaining portion of this proposed rule change with regard to the UTP of the Subsequent Funds before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of these Shares on the Amex is consistent with the Act.<sup>24</sup> The Commission presently is not aware of any issue that would cause it to revisit that earlier finding or preclude the trading of these funds on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposed rule change should benefit investors by creating, without undue delay, additional competition in the market for these Shares.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-PCX-2005-115), as amended, is hereby partially approved on an accelerated basis.<sup>25</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>26</sup>

**Nancy M. Morris**,  
Secretary.

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**BILLING CODE 8010-01-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket OST-2005-22935]

### Application of Mokulele Flight Service, Inc. for Certificate Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of order to show cause (Order 2006-6-34).

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Mokulele Flight Service, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property and mail.

**DATES:** Persons wishing to file objections should do so no later than July 11, 2006.

**ADDRESSES:** Objections and answers to objections should be filed in Docket OST-2005-22935 and addressed to U.S. Department of Transportation, Docket Operations, (M-30, Room PL-401), 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Vanessa R. Balgobin, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: June 27, 2006.

**Michael W. Reynolds**,

*Acting Assistant Secretary for Aviation and International Affairs.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2006-25169, Notice No. 1]

### Hazardous Materials: Improving the Safety of Railroad Tank Car Transportation of Hazardous Materials

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of establishment of public docket; notice of availability.

**SUMMARY:** FRA and the Pipeline and Hazardous Materials Safety Administration (PHMSA), operating administrations of DOT, have initiated a

<sup>21</sup> See Amex Order, *supra* note 7.

<sup>22</sup> 17 CFR 240.12f-5.

<sup>23</sup> 15 U.S.C. 78k-(a)(1)(C)(iii).

<sup>24</sup> See Amex Order, *supra* note 7.

<sup>25</sup> 15 U.S.C. 78s(b)(2).

<sup>26</sup> 17 CFR 200.30-3(a)(12).