



RULE
ADOPTION
NOTICE

RAN-01-32
July 20, 2001

**TO: All PCX Members and Member Organizations
ETP Holders, Equity ASAP Holders, and ETP Firms**

FROM: Department of Regulatory Policy

**SUBJECT: PCX Equities Rules Relating to Exchange-Traded Fund Shares ("ETFs")
(File No. SR-PCX-2001-14)**

On July 12, 2001, the Securities and Exchange Commission ("SEC") approved an Exchange rule proposal to adopt generic listing requirements for Investment Company Units ("ICUs") and Portfolio Depositary Receipts ("PDRs") (collectively known as ETFs). The new rules allow Pacific Equities, Inc. ("PCXE") to begin trading qualifying products pursuant to SEC Rule 19b-4(e) without submitting a formal rule filing to the SEC. This rule change will significantly speed the introduction of certain new derivative securities products.

Following is the text of the rule changes that the SEC has approved. Questions regarding this notice may be addressed to Peter Bloom at (415) 393-4166.

EXHIBIT A

Text of the Rule Change¹

PCX Equities, Inc.

Rule 5 Listings

Section 1. General Provisions and Definitions

General Provisions and Definitions

Rule 5.1(a) – No change.

¹ New text is underscored; deleted text in brackets.

Definitions

Rule 5.1(b) – No change.

(1) – (15) – No change.

(16) The term “Reporting Authority” in respect of a particular series of Investment Company Units (“Units”) means the Corporation, a subsidiary of the Corporation, or an institution or reporting service designated by the Corporation or its subsidiary as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of any securities required to be deposited in connection with issuance of Units; the amount of any dividend equivalent payment or cash distribution to holders of Units, net asset value, or other information relating to the issuance, redemption or trading of Units. Nothing in Rule 5.2(j)(3) implies [this section shall imply] that an institution or reporting service that is the source for calculating and reporting information relating to Units must be designated by the Corporation. The term “Reporting Authority” shall not refer to an institution or reporting service not so designated.

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Investment Company Units

Rule 5.2(j)(3) – No change.

(A)(i) – (iii) – No change.

(iv) The minimum number of Units required to be outstanding at the commencement of trading is set forth in Commentary .01 paragraph (d) of this Rule. [For each series, the Corporation will establish a minimum number of Units required to be outstanding at the time of commencement of trading on the Corporation.] [There must be at least 300,000 Units outstanding prior to the commencement of trading of a series of Units on the Exchange.]

(B) – (C) – No change.

(D) Limitation of Liability of the Corporation. Neither the Corporation, the Reporting Authority nor any agent of the Corporation shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value the current value of the portfolio of securities required to be deposited to the open-end management investment company [Trust]; the amount of any dividend equivalent payment or cash distribution to holders of Units; net asset value; or other information relating to the creation, redemption

or trading of Units, resulting from any negligent act or omission by the Corporation, or the Reporting Authority, or any agent of the Corporation, or any act, condition or cause beyond the reasonable control of the Corporation or its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reporting of transactions in one or more underlying securities. The Corporation makes no warranty, express or implied, as to results to be obtained by any person or entity from the use of Units or any underlying index or data included therein and the Corporation makes no express or implied warranties, and disclaims all warranties of merchantability or fitness for a particular purpose with respect to Units or any underlying index or data included therein. This limitation of liability shall be in addition to any other limitation contained in the Corporation's Bylaws and Rules.

Commentary:

.01 The Corporation may approve a series of Units for trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934 provided each of the following criteria is satisfied:

(a) Eligibility Criteria for Index Components. Upon the initial listing of a series of Units on the Corporation, or if the Corporation is trading the Units pursuant to unlisted trading privileges, upon the initial listing on the original listing exchange, each component of an index or portfolio underlying a series of Units shall meet the following criteria:

(1) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least \$75 million;

(2) The component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

(3) The most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio;

(4) The underlying index or portfolio must include a minimum of 13 stocks; and

(5) All securities in an underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including the Nasdaq SmallCap Market).

(b) Index Methodology and Calculation.

(1) The index underlying a series of Units will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology;

(2) If the index is maintained by a broker-dealer, the broker-dealer shall erect a “fire-wall” around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer; and

(3) The current index value will be disseminated every 15 seconds over the Consolidated Tape Association’s Network.

(c) Disseminated Information. The Reporting Authority will disseminate for each series of Units an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

(d) Initial Shares Outstanding. A minimum of 100,000 shares of a series of Units is required to be outstanding at commencement of trading.

(e) Minimum Price Variation. The minimum price variation for quoting and entry of orders in a series of Units is \$0.01 as provided in Rule 7.10(a), Commentary .03.

(f) Hours of Trading. Trading may occur between 6:30 a.m. (Pacific Time) and 1:30 p.m. (Pacific Time) for each series of Units.

(g)[f] Surveillance Procedures. The Corporation will implement written surveillance procedures for Units.

(h)[g] Disclosures. The provisions of this subparagraph apply only to series of Units that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Corporation will inform ETP Holders, Equity ASAP Holders, and ETP Firms regarding application of these provisions of this subparagraph to a particular series of Units by means of an information circular prior to commencement of trading in such series.

The Corporation requires that ETP Holders, Equity ASAP Holders, and ETP Firms provide to all purchasers of a series of Units a written description of

the terms and characteristics of those securities, in a form approved by the Corporation or prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, ETP Holders, Equity ASAP Holders, and ETP Firms shall include such a written description with any sales material relating to a series of Units that is provided to customers or the public. Any other written materials provided by an ETP Holder, Equity ASAP Holder, or ETP Firm to customers or the public making specific reference to a series of Units as an investment vehicle must include a statement in substantially the following form: “A circular describing the terms and characteristics of (the series of Units) has been prepared by the (open-end management investment company name) and is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of Units).”

An ETP Holder, Equity ASAP Holder, or ETP Firm carrying an omnibus account for a non-ETP Holder, non-Equity ASAP Holder, or non-ETP Firm is required to inform such non-ETP Holder, non-Equity ASAP Holder, or non-ETP Firm that execution of an order to purchase a series of Units for such omnibus account will be deemed to constitute agreement by the non-ETP Holder, non-Equity ASAP Holder, or non-ETP Firm to make such written description available to its customers on the same terms as are directly applicable to ETP Holders, Equity ASAP Holders, and ETP Firms under this rule.

Upon request of a customer, an ETP Holder, Equity ASAP Holder, or ETP Firm shall also provide a prospectus for the particular series of Units.

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Rule 7

Equities Trading

Rules 7.1 – 7.9 – No change.

Trading Differentials

Rule 7.10(a) – No change.

Commentary:

.01 - .02 – No change.

.03 The minimum price variation for quoting and entry of orders in series of Investment Company Units (“Units”) and Portfolio Depositary Receipts is \$0.01. [The

minimum fractional variation for dealings in SPDRs and MidCap SPDRs shall be 1/64 of \$1.00. However, to the extent that SPDRs and Midcap SPDRS are traded in decimals the MPV shall be \$.01.]

.04 – No change.

(b) – No change.

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Rule 8

Trading of Certain Equity Derivatives

Rules 8.1 – 8.13 – No change.

Section 2. Portfolio Depository Receipts

Rules 8.100(a) – (b) – No change.

(c) Disclosures. The provisions of this subparagraph apply only to series of Portfolio Depository Receipts that are the subject of an order by the Securities and Exchange Commission exempting such series from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Corporation will inform ETP Holders, Equity ASAP Holders, and ETP Firms regarding application of these provisions of this subparagraph to a particular series of Portfolio Depository Receipts by means of an information circular prior to commencement of trading in such series.

ETP Holders, Equity ASAP Holders, and ETP Firms shall provide to all purchasers of a series of Portfolio Depository Receipts a written description of the terms and characteristics of such securities, in a form approved by the Corporation or prepared by the unit investment trust issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to such purchaser. In addition, ETP Holders, Equity ASAP Holders, and ETP Firms shall include such a written description with any sales material relating to a series of Portfolio Depository Receipts that is provided to customers or the public. Any other written materials provided by an ETP Holder, Equity ASAP Holder, or ETP Firm[s] to customers or the public making specific reference to a series of Portfolio Depository Receipts as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of (the series of Portfolio Depository Receipts) is available from your broker. It is recommended that you obtain and review such circular before purchasing (the series of Portfolio Depository Receipts). In addition, upon request you may obtain from your broker a prospectus for (the series of Portfolio Depository Receipts)."

An ETP Holder, Equity ASAP Holder, or ETP Firm carrying an omnibus account for a non-ETP Holder, [or] non-Equity ASAP Holder, or non-ETP Firm [broker-dealer] is required to inform such non-ETP Holder, [or] non-Equity ASAP Holder, or non-ETP Firm that execution of an order to purchase a series of Portfolio Depositary Receipts for such omnibus account will be deemed to constitute agreement by the non-ETP Holder, [or] non-Equity ASAP Holder[s], or non-ETP Firm to make such written description available to its customers on the same terms as are directly applicable to ETP Holders, Equity ASAP Holders and ETP Firms under this rule.

Upon request of a customer, an ETP Holder, Equity ASAP Holder, or ETP Firm shall also provide a prospectus for the particular series of Portfolio Depositary Receipts.

(d) – No change.

(e) *Initial and Continued Listing and/or Trading.* A Trust upon which a series of Portfolio Depositary Receipts is based will be traded on the Corporation, whether by listing or pursuant to unlisted trading privileges, subject to the following criteria:

(1) Commencement of Trading—The minimum number of Portfolio Depositary Receipts required to be outstanding at commencement of trading is set forth in Commentary .01 paragraph (d) of this Rule. [For each Trust, the Corporation will establish a minimum number of Portfolio Depositary Receipts required to be outstanding at the time of commencement of trading on the Corporation.]

(2) – (5) – No change.

(f) – No change.

Commentary:

.01 The Corporation may approve a series of Portfolio Depositary Receipts for trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934 provided each of the following criteria is satisfied:

(a) Eligibility Criteria for Index Components. Upon the initial listing of a series of Portfolio Depositary Receipts on the Corporation, or if the Corporation is trading the Portfolio Depositary Receipts pursuant to unlisted trading privileges, upon the initial listing on the original listing exchange, each component of an index or portfolio underlying a series of Portfolio Depositary Receipts shall meet the following criteria:

(1) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least \$75 million;

(2) The component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

(3) The most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio;

(4) The underlying index or portfolio must include a minimum of 13 stocks; and

(5) All securities in an underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including the Nasdaq SmallCap Market).

(b) *Index Methodology and Calculation.*

(1) The index underlying a series of Portfolio Depositary Receipts will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology;

(2) If the index is maintained by a broker-dealer, the broker-dealer shall erect a “fire-wall” around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer; and

(3) The current index value will be disseminated every 15 seconds over the Consolidated Tape Association’s Network.

(c) *Disseminated Information.* The Reporting Authority will disseminate for each series of Portfolio Depositary Receipts an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

(d) *Initial Shares Outstanding.* A minimum of 100,000 shares of a series of Portfolio Depositary Receipts is required to be outstanding at commencement of trading.

(e) *Minimum Price Variation.* The minimum price variation for quoting and entry of orders in a series of Portfolio Depositary Receipts is \$0.01 as provided in Rule 7.10(a), Commentary .03.

(f) Hours of Trading. Trading may occur between 6:30 a.m. (Pacific Time) and 1:30 p.m. (Pacific Time) for each series of Portfolio Depositary Receipts.

(g) Surveillance Procedures. The Corporation will implement written surveillance procedures for Portfolio Depositary Receipts.