RULE
ADOPTION
NOTICE

RAN-06-45
October 4, 2006

TO: **ETP Holders and Sponsored Participants**

FROM: **Department of Regulatory Policy**

SUBJECT: **Passive Liquidity Order Type (File No. SR-PCX-2005-53)**

On April 14, 2005, NYSE Arca Inc. ("Exchange") (f/k/a The Pacific Exchange, Inc.) filed SR-PCX-2005-53 with the Securities and Exchange Commission; a proposed rule change to NYSE Arca Equities Rule 7. This filing established criteria for a new order type for equity trading; Passive Liquidity Orders. The Exchange filed Amendment No 1 to the proposal on June 3, 2005, Amendment No 2 to the proposal on August 26, 2006, Amendment No 3 to the proposal on December 01, 2005 and Amendment No 4 to the proposal on August 25, 2006. The Commission approved the proposed rule change, as amended on September 26, 2006.

The following is the text of the rule change. Questions regarding this bulletin may be directed to Janet Angstadt @ (312) 442-7147.

EXHIBIT 5

Text of the Proposed Rule Change:[1]

Rules of NYSE Arca Equities, Inc.

Rule 7
Equities Trading

Rule 7.31(a) – (g) – No Change

(h) Working Order. Any order with a conditional or undisplayed price and/or size designated as a "Working Order" by the Corporation, including, without limitation:

(1) – (3) – No Change

(4) Passive Liquidity Order. An order to buy or sell a stated amount of a security at a specified, undisplayed price. Passive Liquidity

1 New text is underscored and deleted text is in brackets.

Orders will be executed in the Working Order Process after all other Working Orders except undisplayed discretionary order interest. Passive Liquidity Orders with a price superior to that of Directed Fills will have price priority and will execute ahead of inferior priced Directed Fills in the Directed Order Process. Passive Liquidity Orders with a price superior to that of displayed orders will have price priority and will execute ahead of inferior priced displayed orders in the Display Order Process. In issues where the NYSE Arca Marketplace is the primary listings market and there is a Lead Market Maker, the Passive Liquidity Order will be available to the Lead Market Maker only; provided, however, that a buy (sell) Passive Liquidity Order in such instance shall execute against an incoming sell (buy) marketable order only if one of the following conditions are met: (a) the NYSE Arca Book is at the national best bid (offer) and the Lead Market Maker has a displayed bid (offer) equal to the NYSE Arca Marketplace best bid (offer) with a quoted size *at least as large as* the total size of the incoming marketable sell (buy) order against which the Passive Liquidity Order would trade; or (b) the NYSE Arca Book is at the national best bid (offer) and the Lead Market Maker has a displayed bid (offer) $0.01 below (above) the NYSE Arca Marketplace best bid (offer) with a quoted size *at least twice as large as* the total size of the incoming marketable sell (buy) order against which the Passive Liquidity Order would trade; or (c) where the NYSE Arca Book is not at the national best bid (offer) *AND* the price of the Passive Liquidity Order is at least $0.01 higher (lower) than the NYSE Arca Book best bid (offer) *AND* the incoming marketable order is not designated as an "inter-market sweep" order per Regulation NMS. A Passive Liquidity Order shall not execute if it is priced below other orders in the NYSE Arca Book or if the NYSE Arca Book is at the national best bid (offer) and the Lead Market Maker does not have a displayed order within $0.01 of the NYSE Arca Marketplace best bid (offer).

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Rule 7.37

(a) Step 1: Directed Order Process. During Core Trading Hours only, orders may be matched and executed in the Directed Order Process as follows:

(1) If a User submits a marketable Directed Order to the [Archipelago Exchange] NYSE Arca Marketplace and the User's designated Market Maker has a standing instruction for a Directed Fill to the [Archipelago Exchange] NYSE Arca Marketplace, the Directed Order shall be executed against the Directed Fill of the designated Market Maker, unless there is a Passive Liquidity Order as defined in NYSE Arca Equities Rule 7.31(h) with a price superior to that of the Directed Fill, in which case the Passive Liquidity Order will have price priority and will execute ahead of inferior priced Directed Fills in the Directed Order Process. In issues where the NYSE Arca Marketplace is the primary listings market and there is a Lead Market Maker, Passive Liquidity Orders will be available to

the Lead Market Maker only, provided that the display requirements in NYSE Arca Equities Rule 7.31(h)(4) are met.

(2) – (4) –No Change

(b) If an incoming marketable order has not been executed in its entirety pursuant to paragraph (a) of this Rule, any remaining part of the order shall be routed to the Display Order Process.

(1) *Step 2: Display Order Process.*

(A) An incoming marketable order shall first attempt to be matched for execution against orders in the Display Order Process at the display price of the resident order for the total amount of stock available at that price or for the size of the incoming order, whichever is smaller. Passive Liquidity Orders as defined in NYSE Arca Equities Rule 7.31(h) with a price superior to that of displayed orders will have price priority and will execute ahead of inferior priced displayed orders in the Display Order Process. In issues where the NYSE Arca Marketplace is the primary listings market and there is a Lead Market Maker, Passive Liquidity Orders will be available to the Lead Market Maker only, provided that the display requirements in NYSE Arca Equities Rule 7.31(h)(4) are met. For the purposes of this subsection, the size of an incoming Reserve Order includes the displayed and reserve size and the size of the portion of the Reserve Order resident in the Display Order Process is equal to its displayed size. If the incoming marketable order has not been executed in its entirety, the remaining part of the order shall be routed to the Working Order Process.

(B) – No Change

Rule 7.37(b)(2)

(2) *Step 3: Working Order Process.*

(A) An incoming marketable order shall be matched for execution against orders in the Working Order Process in the following manner:

(i) An incoming marketable order shall be matched against orders within the Working Order Process in the order of their ranking, at the price of the displayed portion (or in the case of an All-or-None Order, at the limit price or in the case of a Passive Liquidity Order, at its price), for the total amount of stock available at that price or for the size of the incoming order, whichever is smaller.

Rule 7.37 (b)(2)(A)(ii) – (d) – No Change.

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