

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Commission previously approved a rule proposal by the Exchange to adopt new listings fees for ETFs and CEFs (collectively "Funds") listed by the PCXE for trading on the Archipelago Exchange, a facility of the PCXE.<sup>5</sup> In this rule proposal, the Exchange proposed a non-refundable application processing fee, a one-time original listing fee per Fund issuer or family of Funds, and an annual maintenance fee based on the aggregate total shares outstanding of the Funds listed by the same Fund issuer or family of Funds. The Exchange proposed to implement these fees specific to Funds effective June 21, 2004.

The Exchange now seeks to adjust the implementation date of the Funds' listing fees to April 1, 2005. In February 2005, due to an administrative oversight, the Exchange inadvertently invoiced currently listed Funds for their 2005 annual maintenance fee based on the prior fee schedule. Because the Exchange discovered the error after the Fund issuers had already received the incorrect invoice, the Exchange decided to revise the effective date of implementation rather than withdraw and resubmit corrected invoices. As a result, all listed Funds paid a lower annual maintenance fee than they would otherwise have paid under the new fee schedule. Under these circumstances, the Exchange believes that this adjustment is appropriate as all listed Fund issuers were treated similarly and none were negatively impacted.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its OTP Holders, OTP Firms, ETP Holders, issuers, and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(3) of Rule 19b-4 thereunder,<sup>9</sup> because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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-PCX-2005-37 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-PCX-2005-37. 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 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office 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-PCX-2005-37 and should be submitted on or before May 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**Consensus Standards, Light-Sport Aircraft**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of availability; Request for comments.

**SUMMARY:** This notice announces the availability of a consensus standard relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule issued July 16, 2004, and effective September 1, 2004. ASTM International Committee F37 on Light Sport Aircraft developed this standard with FAA participation. By this Notice, the FAA finds this standard acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule.

**DATES:** Comments must be received on or before June 17, 2005.

**ADDRESSES:** Comments may be mailed to: Federal Aviation Administration, Small Airplane Directorate, Programs and Procedures Branch, ACE-114, Attention: Larry Werth, Room 301, 901 Locust, Kansas City, Missouri 64106.

<sup>5</sup> See Securities Exchange Act Release No. 50591 (October 26, 2004), 69 FR 63427 (November 1, 2004) (SR-PCX-2004-63).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(3).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

Comments may also be e-mailed to: Comments-on-LSA-Standard@faa.gov. All comments must be marked: Consensus Standards Comments, and must specify the standard being addressed by ASTM designation and title.

**FOR FURTHER INFORMATION CONTACT:**

Larry Werth, Light-Sport Aircraft Program Manager, Programs and Procedures Branch (ACE-114), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329-4147; e-mail: larry.werth@faa.gov.

**SUPPLEMENTARY INFORMATION:** This notice announces the availability of a consensus standard relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule. ASTM International Committee F37 on Light Sport Aircraft developed this standard.

*Comments Invited:* Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the consensus standard number and be submitted to the address specified above. All communications received on or before the closing date for comments will be forwarded to ASTM International Committee F37 for consideration. The standard may be changed in light of the comments received. The FAA will address all comments received during the recurring review of the consensus standard and will participate in the consensus standard revision process.

*Background:* Under the provisions of the Sport Pilot and Light-Sport Aircraft rule, and revised Office of Management and Budget (OMB) Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities", dated February 10, 1998, industry and the FAA have been working with ASTM International to develop consensus standards for light-sport aircraft. These consensus standards satisfy the FAA's goal for airworthiness certification and a verifiable minimum safety level for light-sport aircraft. Instead of developing airworthiness standards through the rulemaking process, the FAA participates as a member of Committee F37 in developing these standards. The use of the consensus standard process assures government and industry discussion and agreement on appropriate standards for the required level of safety.

The FAA has reviewed the standard presented in this NOA for compliance

with the regulatory requirements of the rule. Any light-sport aircraft issued a special light-sport airworthiness certificate, which has been designed, manufactured, operated and maintained, in accordance with this and previously accepted ASTM consensus standards provides the public with the appropriate level of safety established under the regulations. Manufacturers who choose to produce these aircraft and certificate these aircraft under 14 CFR part 21, §§ 21.190 or 21.191 are subject to the applicable consensus standard requirements. The FAA maintains a listing of all accepted standards at afs600.faa.gov.

**The Effective Period of Use**

The consensus standard listed in this notice may be used unless the FAA publishes a specific notification otherwise.

**The Consensus Standards**

The FAA finds the following consensus standard acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule:

ASTM Designation F2483-05, titled: Standard Practice for Maintenance and the Development of Maintenance Manuals for Light Sport Aircraft.

**Availability**

This consensus standard is copyrighted by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. Individual reprints of this standard (single or multiple copies, or special compilations and other related technical information) may be obtained by contacting ASTM at this address, or at (610) 832-9585 (phone), (610) 832-9555 (fax), through [service@astm.org](mailto:service@astm.org) (e-mail), or through the ASTM Web site at <http://www.astm.org>. To inquire about standard content and/or membership, or about ASTM International Offices abroad, contact Daniel Schultz, Staff Manager for Committee F37 on Light Sport Aircraft: (610) 832-9716, [dschultz@astm.org](mailto:dschultz@astm.org).

Issued in Kansas City, Missouri on April 7, 2005.

**David R. Showers,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**Notice of Intent to Rule on Application 05-10-C-00-MCO To Impose, Use the Revenue From, Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Orlando International Airport, Orlando, FL.**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose, use the revenue from, impose and use the revenue from a PFC at Orlando International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before May 18, 2005.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office; 5950 Hazeltine National Drive, Suite 400; Orlando, Florida 32822

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. C.W. Jennings of the Greater Orlando Aviation Authority at the following address: Greater Orlando Aviation Authority, Orlando International Airport, One Airport Boulevard, Orlando, Florida 32827-4399. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Greater Orlando Aviation Authority under § 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Vernon P. Rupinta, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812-6331, Extension 124. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose the revenue from a PFC at Orlando International Airport and use at Orlando International Airport and Orlando Executive Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 29, 2005, the FAA determined that the application to impose, use the revenue from, impose and use the revenue from a PFC