

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54348; File No. SR-NYSEArca-2006-47)

August 22, 2006

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Amendment No. 1
Thereof of Proposed Rule Change Relating to Voluntary Withdrawal Procedures by Listed
Issuers

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 August 4, 2006, NYSE Arca, Inc. (“NYSE Arca” 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. On August 17, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

NYSE Arca, through its wholly-owned subsidiary NYSE Arca Equities, Inc. (“NYSE Arca Equities” or “Corporation”), proposes to amend NYSE Arca Equities Rule 5.4(b) relating to the voluntary withdrawal by issuers of their securities listed on NYSE Arca, L.L.C. (also referred to as the “NYSE Arca Marketplace”), the equities trading facility of NYSE Arca Equities, including with respect to dually-listed issuers. Below is the text of the proposed rule change, as amended. Proposed new language is underlined; proposed deletions are in brackets.

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RULE 5 LISTINGS

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange replaced Exhibit 5 with the correct rule text and corrected a typographical error in the heading of Exhibit 1.

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[Issuer Proposing to Withdraw]

Rule 5.4(b). Issuer Proposing to Withdraw

[An issuer proposing to withdraw a security from listing on the Corporation shall submit to the Corporation a certified copy of a resolution adopted by the board of directors of the issuer authorizing withdrawal from listing and registrations, a letter from an authorized officer of the issuer providing the specific reasons cited by the board of directors of the issuer for the proposed withdrawal, and a copy of the Form 25 that the issuer has filed with the Securities and Exchange Commission in accordance with Rule 12d2-2 promulgated under Section 12(d) of the Securities Exchange Act of 1934, as amended, no later than the date of such filing. The issuer may be required, under special circumstances, to submit the proposed withdrawal to the shareholders for their vote at a meeting for which proxies are solicited provided the security is not also listed on another exchange having similar requirements.]

An issuer may delist a security from the Exchange after its board approves the action and the issuer (i) furnishes the Exchange with a copy of the Board resolution authorizing such delisting certified by the secretary of the issuer and (ii) complies with all of the requirements of Rule 12d2-2(c) under the Securities Exchange Act of 1934. The issuer must thereafter file a Form 25 with the Securities and Exchange Commission to withdraw the security from listing on the Exchange and from registration under the Securities Exchange Act of 1934. In addition, the issuer must provide a copy of the Form 25 to the Exchange simultaneously with the filing of such Form 25 with the Securities and Exchange Commission. If an issuer delists a class of stock from the Exchange pursuant to this Rule, but does not delist other classes of listed securities, the Exchange will give consideration to delisting one or more of such other classes.

If, however, an issuer proposing to withdraw from listing is also listed on a national securities exchange or the Nasdaq Stock Market (including the Nasdaq Capital Market or any successor thereto), it need not submit the board resolution required by Rule 5.4(b)(i) above, but, in lieu thereof, must provide a letter signed by an executive officer of the issuer setting forth the reasons for the proposed withdrawal. Such issuers must still otherwise comply with the other requirements of this Rule and Rule 12d2-2(c) under the Securities Exchange Act of 1934.

The Exchange [Corporation], upon receiving written notification of the issuer's intent to withdraw its securities from listing and registration, shall post notice of such intent on the Exchange's website by the next business day and until the delisting becomes effective. An issuer seeking to voluntarily apply to withdraw a class of securities from listing on NYSE Arca pursuant to this paragraph that has received notice from NYSE Arca, pursuant to Rule 5.3, Rule 5.5 or otherwise, that it is below NYSE Arca's continued listing policies and standards, or that is aware that it is below such continued listing policies and standards notwithstanding that it has not received such notice from NYSE Arca, must disclose that it is no longer eligible for continued listing (identifying the specific continued listing policies and standards with which it does not comply) in: (i) its statement of all material facts relating to the reasons for withdrawal from listing provided to NYSE Arca along with written notice of its determination to withdraw from listing required by Rule 12d2-2(c)(2)(ii) under the Exchange Act; and (ii) its public press release and Web site notice required by Rule 12d2-2(c)(2)(iii) under the Exchange Act.

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

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

1. Purpose

On March 7, 2006, Archipelago Holdings, Inc. and the New York Stock Exchange, Inc. completed the merger creating the NYSE Group, Inc. (“NYSE Group”). The NYSE Group is a holding company that operates, among other things, two securities exchanges: New York Stock Exchange LLC (“NYSE”) and NYSE Arca Marketplace.⁴ In connection with the merger, NYSE Arca Marketplace examined its listings program, and determined to revitalize and refocus its primary listings program. In particular, with this filing, NYSE Arca proposes to: (1) substantially align its voluntary withdrawal requirements with those of the NYSE,⁵ and (2) eliminate – for all issuers listed on NYSE Arca, on the one hand, and either a national securities exchange or the Nasdaq Stock Market (including the Nasdaq Capital Market or any successor thereto), on the other hand (which will be referred to as “dually-listed issuers”) – the requirement set forth in the current NYSE Arca Equities Rule 5.4(b) that issuers which propose to withdraw a security from listing shall submit a certified copy of a resolution adopted by the board of directors authorizing withdrawal from listing and registration. Instead, a dually-listed issuer

⁴ The Commission notes that NYSE Group operates two national securities exchanges: NYSE and NYSE Arca. NYSE Arca Marketplace is a facility of NYSE Arca Equities.

⁵ For example, current Section 806.02 of the NYSE Listed Company Manual states that if an issuer delists a class of stock from NYSE but does not delist other classes of securities, NYSE will give consideration to the delisting of one or more of such other classes. Proposed NYSE Arca Equities Rule 5.4 will provide the Exchange with similar flexibility.

wishing to voluntarily withdraw will be required to submit a letter from an executive officer of the issuer setting forth the reasons for the proposed withdrawal.

The elimination of the board resolution requirement applies to dually-listed issuers only; the board resolution requirement will continue to apply to all issuers listed exclusively on NYSE Arca. Furthermore, all other requirements of NYSE Arca Equities Rule 5.4(b) will continue to apply to dually-listed issuers. The Exchange also notes that dually-listed issuers will still be required to comply with any applicable state laws.

Additionally, based on informal discussions with its dually-listed issuers, NYSE Arca believes that removing the board resolution requirement will ease the process for any dually-listed issuer who wishes to voluntarily withdraw from NYSE Arca. Furthermore, the Exchange believes that the removal of this requirement would not create or raise any new or significant regulatory issues. While a dually-listed issuer will not be listed and traded on NYSE Arca following its withdrawal from the NYSE Arca Marketplace, the issuer will continue to be listed and traded on either a registered securities exchange or the Nasdaq Stock Market (or any successor thereto). Consequently, transparent last sale reporting information regarding trading in the issuer's securities will continue to be disseminated, and the continued listing and trading of such securities will remain subject to the same or substantially similar protections and requirements to which such listing and trading is currently subject on NYSE Arca. Moreover, in lieu of the board resolution requirement, an executive officer of the dually-listed issuer will be required to present a detailed rationale for the proposed withdrawal. In contrast, those issuers exclusively listed on NYSE Arca that wish to delist will continue to be required to comply with the board resolution requirement.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act⁶ because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change, as amended, 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

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

⁶ 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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. Please include File Number SR-NYSEArca-2006-47 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2006-47. 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 Room. 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-NYSEArca-2006-47 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Nancy M. Morris
Secretary

⁷ 17 CFR 200.30-3(a)(12).