

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67058; File No. SR-NYSEArca-2012-45)

May 24, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending Its Rules to Reflect the Merger of Archipelago Holdings, Inc. (“Archipelago Holdings”), An Intermediate Holding Company, Into and With NYSE Group, Inc. (“NYSE Group”), Thereby Eliminating Archipelago Holdings From the Ownership Structure of the Exchange

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 May 14, 2012, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its rules to reflect the merger of Archipelago Holdings, Inc. (“Archipelago Holdings”), an intermediate holding company, into and with NYSE Group, Inc. (“NYSE Group”), thereby eliminating Archipelago Holdings from the ownership structure of the Exchange. The text of the proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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 self-regulatory organization included statements

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 those 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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend its rules to reflect the merger of Archipelago Holdings, an intermediate holding company, into and with NYSE Group, thereby eliminating Archipelago Holdings from the ownership structure of the Exchange.

Currently, NYSE Arca Holdings owns 100% of the equity interest of the Exchange. Archipelago Holdings owns 100% of the equity interest of NYSE Arca Holdings, and NYSE Group owns 100% of the equity interest of Archipelago Holdings. NYSE Euronext owns 100% of the equity interest of NYSE Group.

NYSE Euronext intends to merge Archipelago Holdings with and into NYSE Group, effective following approval of this proposed rule change. The reason for the merger is to eliminate an unnecessary intermediate holding company. Following the merger, the Exchange would continue to be 100% owned by NYSE Arca Holdings, which in turn would be 100% owned by NYSE Group, which in turn would be 100% owned by NYSE Euronext.

The Certificate imposes certain ownership and voting restrictions on the shares of NYSE Arca Holdings. Specifically, Article 9, Section 1(b)(i)(B) of the Certificate provides that for so long as NYSE Arca Holdings directly or indirectly controls the Exchange, no Person either alone

or together with its Related Persons,³ may own, directly or indirectly, of record or beneficially shares of the capital stock (whether common or preferred stock) of NYSE Arca Holdings constituting more than 40% of the outstanding shares of any class of capital stock of NYSE Arca Holdings unless the Board of Directors of NYSE Arca Holdings (the “Board”) has adopted an amendment to the NYSE Arca Holdings Bylaws (the “Bylaws”) waiving such a restriction. In connection with such amendment, the Board must adopt resolutions stating that such amendment will not impair the ability of the Exchange to carry out its functions and responsibilities under the Securities Exchange Act of 1934, as amended (the “Act”), and the rules thereunder; is otherwise in the best interests of NYSE Arca Holdings, its stockholders, and the Exchange; and will not impair the ability of the Commission to enforce the Act. Such amendment is not effective until approved by the Commission. The Board also must find that no such Person or Related Person is subject to a statutory disqualification under Section 3(a)(39) of the Act. Similarly, Article 9, Section 1(c) of the Certificate provides that no Person, either alone or together with its Related Persons, may directly or indirectly vote more than 20% of the shares of NYSE Arca Holdings unless the Board adopts an amendment to its Bylaws waiving such a restriction and, in connection with such amendment, adopts resolutions and makes a determination with respect to statutory disqualification substantially the same as those described above for the ownership restriction. Article 9, Section 4 of the Certificate provides certain exceptions to these ownership and voting restrictions for Archipelago Holdings.

The Exchange proposes to amend the Bylaws of NYSE Arca Holdings as required by the Certificate; make further amendments to the Certificate, Bylaws, and other rules that would reflect the elimination of Archipelago Holdings from the Exchange’s ownership structure; and

³ The terms “Person” and “Related Persons” are defined in the Certificate.

delete duplicative or obsolete text. The proposed rule change otherwise would have no substantive impact on other rules of the Exchange, including those concerning the voting and ownership restrictions that currently apply to the Exchange and its affiliates.⁴ The Board has adopted resolutions approving the proposed changes.⁵

First, the Exchange proposes to replace references to Archipelago Holdings in Article 9, Section 4 of the Certificate with references to NYSE Group. In addition, the Exchange proposes to delete the last sentence of that Section, which relates to certain voting and ownership restrictions that were put in place when the Exchange combined with the New York Stock Exchange in 2005 but have been superseded by other requirements.⁶

Second, the Exchange proposes to amend the Bylaws by adding a new Article 11 that sets forth the waiver of the ownership and voting restrictions, as required by the Certificate, solely for purposes of the contemplated merger. The Exchange also proposes to amend the Bylaws to change references to the Pacific Exchange, Inc. to NYSE Arca, Inc.; change references to PCX Holdings, Inc. to NYSE Arca Holdings; and delete Section 6.07, which contains an obsolete reference to trading in minimum lots.

Third, the Exchange proposes to delete NYSE Arca Options Rule 1.1(cc) and (gg), which set forth the definitions for Archipelago Holdings and Related Person, and to delete NYSE Arca Options Rule 3.4, which sets forth ownership and voting restrictions for Archipelago Holdings. Upon the elimination of Archipelago Holdings, NYSE Group would be the next holding company, and voting and ownership restrictions are currently set forth in its Second Amended

⁴ See Securities Exchange Act Release No. 55294 (Feb. 14, 2007), 72 FR 8046 (Feb. 22, 2007) (SR-NYSEArca-2007-05); see also Securities Exchange Act Release No. 55293 (Feb. 14, 2007), 72 FR 8033 (Feb. 22, 2007) (SR-NYSE-2006-120).

⁵ See Exhibit 5F.

⁶ See supra note 4.

and Restated Certificate of Incorporation of NYSE Group, Inc. (“NYSE Group Certificate”) in Article IV, Section 4(b). The term Related Person is not otherwise used in the NYSE Arca Options Rules.

Fourth, NYSE Arca Equities Rule 14.3(b) provides that all officers and directors of Archipelago Holdings shall be deemed to be officers and directors of the Exchange and NYSE Arca Equities for purposes of, and subject to oversight pursuant to, the Act. NYSE Arca Equities Rule 14.3(d) provides that Archipelago Holdings must maintain all books and records related to the Exchange within the United States. The Exchange proposes to delete this text and make a conforming change to NYSE Arca Equities Rule 14.3(c). Comparable provisions are already contained in NYSE Group’s governing documents. Under Article IX of the NYSE Group Certificate, NYSE Group’s directors and officers already are subject to the jurisdiction of the Commission, and under Article X, NYSE Group’s books and records relating to the Exchange must be maintained within the United States.

Fifth, NYSE Arca Equities Rule 14.3(a), (e), and (f) contain references to Archipelago Securities, L.L.C. for which a short form, “Archipelago,” is used. For the avoidance of confusion, the Exchange proposes to amend that reference to be “Arca Securities,” which is the short form used for Archipelago Securities, L.L.C. in NYSE Arca Equities Rule 7.45(c).

Finally, the Exchange proposes to delete in its entirety the text of the Amended and Restated Certificate of Incorporation and the Bylaws of Archipelago Holdings because the company will no longer exist upon consummation of the merger and as such these documents will no longer be rules of the Exchange.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, in that 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the proposed rule change would result in the Exchange's rules correctly reflecting its ownership structure without having any substantive impact on the Exchange's rules, including those concerning the voting and ownership restrictions that currently apply to the Exchange and its affiliates.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 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 or disapprove such proposed rule change; or

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

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

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. Please include File Number SR-NYSEArca-2012-45 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2012-45. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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-2012-45 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).