

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-82149; File No. SR-NYSEArca-2017-132)

November 22, 2017

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 5.1-E(c) Regarding the Requirements for the Listing of Securities that are Issued by the Exchange or Any of Its Affiliates

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on November 17, 2017, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Rule 5.1-E(c) regarding the requirements for the listing of securities that are issued by the Exchange or any of its affiliates. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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 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

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.1-E(c) (Listing of an Affiliate or Entity that Operates and/or Owns a Trading System or Facility of the Exchange) regarding the requirements for the listing of securities that are issued by the Exchange or any of its affiliates.

Paragraph (c) of 5.1-E(c) sets forth certain monitoring requirements that must be met throughout the continued listing and trading of securities issued by the Exchange's ultimate parent, Intercontinental Exchange, Inc. ("ICE"), or its affiliates. More specifically, paragraph (c)(1) and (2) of Rule 5.1-E(c) provide that, throughout the continued listing and trading of an Affiliate Security<sup>4</sup> on the Exchange:

- the Exchange will prepare a quarterly report on the Affiliate Security ("Quarterly Report") for the Exchange's Regulatory Oversight Committee ("ROC"), and a copy of the Quarterly Report will be forwarded promptly to the Securities and Exchange Commission ("Commission"); and
- once a year, an independent accounting firm shall review the listing standards for the Affiliate Security to insure that the issuer is in compliance with the listing

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<sup>4</sup> Pursuant to Rule 5.1-E(c)(a), "Affiliate Security" means any security issued by an ICE Affiliate or any Exchange-listed option on any such security, and "ICE Affiliate" means ICE and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with ICE, where "control" means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

requirements (“Annual Report”), and a copy of the Annual Report shall be forwarded promptly to the ROC and the Commission.

The Exchange proposes to amend paragraph (c) of Rule 5.1-E(c) to remove the requirement that copies of the Quarterly and Annual Reports be forwarded to the Commission, by deleting the final sentence of Rule 5.1-E(c)(c)(1) and the text “and the Commission” from the end of Rule 5.1-E(c)(c)(2). In addition, because the proposed deletions would remove the definition of “Commission” currently in Rule 5.1-E(c)(c)(1), the Exchange proposes to add the definition to Rule 5.1-E(c)(c)(3).

No other changes would be made to paragraph (c) of Rule 5.1-E(c), which would continue to require that the Quarterly Report be prepared for the ROC and the Annual Report be forwarded promptly to the ROC.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act<sup>5</sup> in general, and Section 6(b)(5)<sup>6</sup> 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating

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<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

transactions in securities, remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, because the proposed changes would reduce the paperwork received by the Commission and ease the burden of submitting the Quarterly and Annual Reports, without changing the information available to the Commission. In discussions with the Commission Staff regarding Rule 5.1-E(c), it was determined that the Exchange no longer needed to provide copies of the Quarterly and Annual Reports to the Commission. The Quarterly and Annual Reports would continue to be available to the Commission, as they are subject to Section 17A of the Act<sup>7</sup> and Rule 17a-1 thereunder,<sup>8</sup> pursuant to which the Exchange is required to keep and preserve copies of the Quarterly and Annual Reports, and to promptly furnish to the Commission copies of such Reports upon request of any representative of the Commission.

The Exchange believes that the proposed non-substantive change adding the definition of “Commission” to Rule 5.1-E(c)(c)(3) would promote just and equitable principles of trade and remove impediments to a free and open market by providing greater clarity in the Exchange’s rules.

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 Exchange Act. The proposed rule change is not intended to address competitive issues but rather to reduce the paperwork received by the Commission and ease the burden of submitting the Quarterly and Annual Reports, without changing the information available to the Commission.

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<sup>7</sup> 15 U.S.C. 78q.

<sup>8</sup> 17 CFR 240.17a-1.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>11</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>12</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

#### 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-NYSEArca-2017-132 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2017-132. 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.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2017-132 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.<sup>13</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).