

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² NYSE Chicago, Inc. (“NYSE Chicago” or the “Exchange”) proposes to repeal the Third Amended and Restated Certificate of Incorporation of the Exchange (“Exchange Certificate of Incorporation”) and adopt the Certificate of Formation of NYSE Texas, Inc. (“Exchange Certificate of Formation”), amend the Second Amended and Restated Bylaws of the Exchange (“Exchange Bylaws”), the Third Amended and Restated Certificate of Incorporation of NYSE Chicago Holdings, Inc., the Exchange’s parent company (“Holdings”, and such certificate, the “Holdings Certificate”), the Third Amended and Restated Bylaws of Holdings (“Holdings Bylaws”), the rules of the Exchange (“Rules”), the Fees Schedule of the Exchange (“Fee Schedule”), the Connectivity Fee Schedule, and NYSE Proprietary Market Data Fees (“Schedule of Market Data Fees”) to reflect (1) the proposed conversion of the Exchange to a Texas corporation and proposed name change to “NYSE Texas, Inc.”; (2) the proposed name change of Holdings to “NYSE Texas Holdings, Inc.”; (3) a change in address of the registered office for Holdings; (4) certain changes to the Exchange Bylaws due to the proposed conversion of the Exchange to a Texas corporation that are substantive but not material; and (5) certain non-substantive conforming changes.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or significant indirect effect, on the application of any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The board of directors of Holdings approved the amendments to the Holdings Certificate and Holdings Bylaws. Holdings, as the sole shareholder of the Exchange, and the Board of Directors of the Exchange (“Exchange Board”) approved the repeal of the Exchange Certificate of Incorporation and adoption of the Exchange Certificate of Formation. The Exchange Board approved the amendments to the Exchange Bylaws. Senior management approved the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

changes to the Rules, Fee Schedule, Connectivity Fee Schedule, and Schedule of Market Data Fees, pursuant to authority delegated to it by the Exchange Board. No further action is required under the Exchange's governing documents. Therefore, the Exchange's internal procedures with respect to the proposed rule change are complete.

The person on the Exchange Staff prepared to respond to questions and comments on the proposed rule change is:

Martha M. Redding
Corporate Secretary
NYSE Group, Inc.
212 656 2938

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

(a) Purpose

The Exchange proposes to repeal the Exchange Certificate of Incorporation, adopt the Exchange Certificate of Formation, amend the Exchange Bylaws, the Holdings Certificate, the Holdings Bylaws, the Rules, the Fee Schedule, the Connectivity Fee Schedule, and the Schedule of Market Data Fees to reflect (1) the proposed conversion of the Exchange to a Texas corporation and proposed name change of the Exchange to "NYSE Texas, Inc."; (2) the proposed name change of Holdings to "NYSE Texas Holdings, Inc."; (3) a change in address of the registered office for Holdings; (4) certain changes to the Exchange Bylaws due to the proposed conversion of the Exchange to a Texas corporation that are substantive but not material; and (5) certain non-substantive conforming changes.

All changes described herein would become operative upon the Exchange Certificate of Formation becoming effective pursuant to its filing with the Secretary of State of the State of Texas and the filing of a certificate of conversion with the Secretary of State of the State of Delaware.

Background

The Exchange has determined that it would be desirable to convert the Exchange from a corporation organized under the laws of the state of Delaware to one organized under the laws of the state of Texas. To effect such change, it proposes to repeal the Exchange Certificate of Incorporation and file the Exchange Certificate of Formation with the Secretary of State of Texas, together with a certificate of conversion. By virtue of the conversion, the Exchange will convert from a corporation organized under the laws of the state of Delaware to one organized under the laws of the state of Texas, but will be deemed to be the same entity.

The Exchange has also determined that it would be desirable to change its name to “NYSE Texas, Inc.” and, to be stylistically consistent, to change the name of Holdings to “NYSE Texas Holdings, Inc.” It proposes to reflect such changes in the Exchange Certificate of Formation as well as amend the Exchange Bylaws, the Holdings Certificate, the Holdings Bylaws, the Rules, the Fee Schedule, the Connectivity Fee Schedule, and the Schedule of Market Data Fees to reflect the changes.

The Exchange is not proposing to affect the corporate governance of the Exchange as an “national securities exchange” registered under Section 6 of the Act.³ The proposed changes will not substantively impact the Exchange’s existing rules or its current obligations and requirements under its governing documents or the Act. The Exchange is not proposing any changes to its rules or various fee schedules other than the technical amendments to implement the conversion to a Texas corporation and the name changes, as set forth below.

The Exchange does not propose to change the fact that Holdings is a corporation organized under the laws of the state of Delaware or the ownership structure of the Exchange.

To effect the changes, the Exchange proposes the following amendments, as reflected in Exhibit 5.

Exchange Certificate of Incorporation and Exchange Certificate of Formation

The Exchange proposes to repeal the Exchange Certificate of Incorporation and adopt the Exchange Certificate of Formation as an entity is formed in the State of Texas upon filing of a “certificate of formation.”⁴ The Exchange Certificate of Formation would have the following non-substantive differences from the Exchange Certificate of Incorporation:

- To reflect the change in incorporation, the title would change from “Third Amended and Restated Certificate of Incorporation of NYSE Chicago, Inc.” to “Certificate of Formation of NYSE Texas, Inc.”
- The introductory paragraphs outlining the provisions under the General Corporation Law of the State of Delaware (“DGCL”) under which the Exchange was organized and the history of the Exchange Certificate of Incorporation would be deleted.
- The provisions would be set out in articles.

³ 15 U.S.C. 78f.

⁴ See BUS ORG § 3.001. The Exchange opted to restate Form 201 of the Secretary of State of the State of Texas (Certificate of Formation For-Profit Corporation) (“Form 201”) as part of the Exchange Certificate of Formation.

- As required by Form 201,⁵ Article 1 would state that the entity is for-profit and give its name. Current FIRST states the name.
- Current SECOND provides the name and address of the registered agent and office in Delaware. As required by Form 201,⁶ the name and address of the registered agent and registered office would be set forth in Article 2, with a Texas office. The registered agent would remain the United Agent Group Inc.
- As required by Form 201,⁷ Article 3 would set out the number and list the names of the directors. The directors set forth in Article 3 are the same directors that are currently serving on the Exchange Board and they have the same term, so there would be no change to the Exchange Board.
- As required by Form 201,⁸ Article 4 would set forth the Authorized Shares, consistent with the current FOURTH. To reflect its name change, the shareholder in Article 4 would change from NYSE Chicago Holdings, Inc. to NYSE Texas Holdings, Inc., with the statement that it “shall” be the sole owner of the stock. Currently, the text states that NYSE Chicago Holdings Inc. “will” be the sole owner of the stock.
- As required by Form 201,⁹ Article 5 would specify that the purpose for which the Exchange is formed “is for the transaction of any and all lawful business for which a for-profit corporation may be organized under the Texas Business Organizations Code (‘BOC’).” The current purpose, set forth in THIRD, is “to engage in any lawful act or activity for which corporations may be organized under the [DGCL].”
- As required by Form 201,¹⁰ Article 6 would indicate the address to which franchise tax correspondence should be sent and Article 7 would state when the document would become effective.
- Article 8 would give information regarding the conversion, stating that the entity is formed under a plan of conversion and identifying the name and address of the converting entity. The information is required for a

⁵ See Form 201 of the Secretary of State of the State of Texas, Article 1, Entity Name and Type.

⁶ See Form 201 of the Secretary of State of the State of Texas, Article 2, Registered Agent and Registered Office.

⁷ See Form 201 of the Secretary of State of the State of Texas, Article 3, Directors.

⁸ See Form 201 of the Secretary of State of the State of Texas, Article 4, Authorized Shares.

⁹ See Form 201 of the Secretary of State of the State of Texas, Article 5, Purpose.

¹⁰ See Form 201 of the Secretary of State of the State of Texas, Article 6, Initial Mailing Address, and Effectiveness of Filing.

conversion.¹¹

- Article 9(a) would be the same as current FIFTH(a), with the exception that Delaware would be replaced by Texas.
- Article 9(b) would be the same as current FIFTH(b), with the exception that the statement that “cause” includes actions resulting in liability under Section 174 of the DGCL would be deleted. Texas does not have a similar requirement.
- Article 9(c) would be the same as current FIFTH(c).
- Current SIXTH, which provides that the duration of the Exchange shall be perpetual, would be deleted.
- Article 9(d) would be the same as current SEVENTH, with a conforming change made to update a cross reference.
- Article 9(e)-(h) would be the same as the current EIGHTH, NINTH, TENTH and ELEVENTH, with the exceptions that (1) references to the DGCL would be replaced by references to the BOC; (2) references to the Exchange Certificate of Incorporation would be replaced by references to the Exchange Certificate of Formation; and (3) the phrase “as otherwise required under the BOC” would be added to (h). To the Exchange’s knowledge, the BOC does not have any requirements regarding additional approval of amendments to a certificate of formation. The provision continues to require that any change to the Exchange Certificate of Formation that is required to be approved or filed with the Commission be so approved or filed, so the Commission would be informed and, as required, approve of any proposed changes to the Exchange Certificate of Formation.
- The text in the first sentence of the current TENTH would be replaced as Article 9(g) with references to Texas courts and Texas law. The changes are to reflect the different courts and law of Texas. They incorporate no substantive difference from Delaware law. The changes are as follows (proposed text underlined, proposed deletions in brackets):

Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court [of equitable] that has jurisdiction over the property and business of the Corporation within the State of [Delaware] Texas may, to the extent permitted under Texas law, on the application

¹¹ See Form 647 of the Secretary of State of the State of Texas (Certificate of Conversion of a Foreign Entity Converting to a Texas Filing Entity).

[in a summary way] of the Corporation or any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under Section [291 of Title 8] 11.401 of the [Delaware Code] BOC or on the application of [trustees in dissolution or of any receiver or receivers] the appointed persons for the Corporation, in dissolution under Section [279 of Title 8] 11.054 of the [Delaware Code] BOC, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the such court directs.

- As required by Form 201,¹² Article 10 would set forth the name of the organizer, and the execution block would be revised.

Exchange Bylaws

In two changes that are substantive but not material, the Exchange proposes to amend the Exchange Bylaws to reflect the move, as follows:

- The Exchange proposes to add a sentence to Article II, Section 5 (Vacancies). The sentence would read as follows:

During the period between two (2) successive annual meetings of stockholders, the Board may not fill more than two (2) vacancies created by an increase in the number of Directors.

The sentence would allow the Exchange to be in accordance with the BOC, which provides that “during a period between two successive annual meetings of shareholders, the board of directors may not fill more than two vacancies created by an increase in the number of directors.”¹³ The Exchange, however, will continue to comply with the existing obligations and composition requirements for the Exchange Board, as specified elsewhere in the Exchange Bylaws, its other governing documents and its rules.

- In Article III, Section 6 (Voting of Shares; Proxies), the Exchange proposes to change the language “but no proxy shall be valid after three years from its date, unless the proxy provides for a longer period” to “but no proxy shall be valid after eleven (11) months from its date, unless the proxy provides for a longer period.” The change would be in accordance with the BOC, which provides that a proxy is not valid after eleven months after the date the proxy is executed unless otherwise provided by

¹² See Form 201 of the Secretary of State of the State of Texas, Organizer and Execution.

¹³ BUS ORG § 21.410(d).

the proxy.¹⁴ The change is not material because (a) the provision and the BOC provide that the proxy can provide for a longer period, which mean that it could match the Delaware requirement, and (b) Holdings is the sole stockholder of the Exchange, and any change of ownership would be reflected in the Exchange's governing documents¹⁵ and Rules,¹⁶ therefore requiring that the Exchange file with the Securities and Exchange Commission before making any change in ownership.

The Exchange proposes to amend the Exchange Bylaws to make additional non-substantive and non-material changes to reflect the move and name changes, as follows:

- To reflect that the Exchange Bylaws will be filed in Texas for the first time, delete “Second Amended and Restated” from the title.
- To reflect the name change, change “NYSE Chicago, Inc.” to “NYSE Texas, Inc.” in the title and Article I, Section 1. Similarly, to reflect the name change of Holdings, change “NYSE Chicago Holdings, Inc.” to “NYSE Texas Holdings, Inc.” in Article IX, Section 2 (Participation in Board and Committee Meetings).
- To reflect the change in incorporation to the State of Texas, change “Delaware” to “Texas” in Article I, Section 1 (Registered Office and Registered Agent) and Section 2 (Other Offices); Article II, Section 7 (Place of Meetings; Mode); and Article VIII, Section 5 (Registered Stockholders).
- Changes from “incorporation” to “formation” would be made in Article II, Section 15 (Removal); Article IV, Section 5 (Conduct of Proceedings); and Article X, Section 2 (Dividends), to reflect the repeal of the Exchange Certificate of Incorporation and adoption of the Exchange Certificate of Formation.
- Change the references to “General Corporation Law of the State of Delaware” to “Texas Business Organizations Code” in Article III, Section 5(b)(Quorum and Vote Required for Action) and Section 7 (Action in Lieu of Meeting). The Exchange is not aware of any substantive difference between the Delaware and Texas law regarding these matters.
- In Article VI, Section 1(e) (Indemnification), replace “Section 145 of the

¹⁴ See BUS ORG § 21.368.

¹⁵ See, e.g. the Exchange Certificate of Formation.

¹⁶ See, e.g. Article 1, Rule 1(h) (stating that the Exchange is a wholly-owned subsidiary of Holdings, which relationship would not be amended by any of the proposed changes).

Delaware General Corporation Law” with “Section 8.101 of the Texas Business Organizations Code” and “other enterprise” with “employment benefit plan” in accordance with the BOC, which expressly includes actions taken or omitted with respect to an employee benefit plan.¹⁷

- In Article VIII, Section 4 (Transfers of Stock), replace the reference to “Section 8.401 of Title 6 of the Delaware Code” with a reference to “Section 8-401 of Title 1 of the Texas Business and Commerce Code.” The language of Section 8-401 of Title 6 of the Delaware Code is the same as Section 8-401 of Title 1 of the Texas Business and Commerce Code.¹⁸

Holdings Certificate

The Exchange proposes to amend the Holdings Certificate to effectuate the name change and make other non-substantive changes, as follows:

- Update references in the title, introductory paragraphs, Article XIV (Effective Time), and signature block to the Holdings Certificate to reflect that it is the “Fourth Amended and Restated Certificate of Incorporation.”
- Amend the title, first sentence of the second introductory paragraph, and signature block to reference the “NYSE Chicago Holdings, Inc.,” and the second sentence of the second introductory paragraph to state that the original Certificate was filed under the name CHX Holdings, Inc.
- Update the third introductory paragraph to add Section 228 of the DGCL, to conform to the first paragraph and because the current changes are being adopted consistent with Section 228 of the DGCL.¹⁹
- Update the description of the history of the Holdings Certificate in the third paragraph.
- To reflect the name change, replace “NYSE Chicago Holdings, Inc.” under Article I of the proposed Holdings Certificate with “NYSE Texas Holdings, Inc.”
- Amend Article II (Registered Office) to update the address of Holding’s registered office in Delaware and the language referencing the name of the registered agent.
- Remove the Article number and title of Article XIV and amend the text to provide the effective date and time of the proposed Holdings Certificate

¹⁷ See BUS ORG § 8.101(b).

¹⁸ See Del. Code tit. 6 §8-401 and Texas BUS & COM § 8.401.

¹⁹ See Del. Code tit. 8 §228.

and update the date in the signature block to indicate when the Holdings Certificate is executed.

Holdings Bylaws

The Exchange proposes to amend the Holdings Bylaws to reflect the name change and change in the address of the registered office. To do so, it proposes to make the following non-substantive changes:

- It proposes to amend the title to reflect that the proposed Holdings Bylaws are the “Fourth Amended and Restated Bylaws of NYSE Texas Holdings, Inc.”
- In Article I, Section 1.1 (Registered Office), it would change the name to “NYSE Texas Holdings, Inc.”, update the address of Holding’s registered office in Delaware, and amend the language referencing the name of the registered agent.

Rules

The Exchange proposes to amend its Rules²⁰ to make the following non-substantive changes:

- Replace references to “NYSE Chicago, Inc.” with “NYSE Texas, Inc.” in the title; Rule 1.1(d) and (h), (Definitions); Article 1, Rule 1(f), (g), and (k) (Definitions); Article 7, Rule 4 (Financial and Operational Reports), Commentary .01; and Article 22, Rule 2 (Admittance to Listing, interpretations and policies), Interpretations and Policies .02(g).
- Replace references to “NYSE Chicago” with “NYSE Texas” in Article 1, Rule 1(g) and (h); and Article 22, Rule 2, Interpretations and Policies .01.
- Replace references to “NYSE Chicago Marketplace” with “NYSE Texas Marketplace” in Rule 1.1(p); Article 17, Rule 3(b) (Responsibilities) and Rule 5 (Brokerplex).
- Replace “NYSE Chicago Holdings” with “NYSE Texas Holdings” in Article 1, Rule 1(h); Article 3, Rule 18 (Suits Against Officers, Director and Staff); and Article 3, Rule 20 (No Affiliation between Exchange and any Participant).
- Replace “Delaware” with “Texas” in Article 1, Rule 1(k), and Article 3, Rule 18.

²⁰

If applicable, the Exchange will submit subsequent rule filings to make any technical corrections to proposed rule changes that are pending as of the date of submission of this filing and approved by the Commission thereafter.

- Replace “Certificate of Incorporation” with “Certificate of Formation” in Article 1, Rule 1(k).
- Update “Gentlemen” to “To Whom it May Concern” in Article 7, Rule 4, Commentary .01.
- Replace “Illinois” with “Texas” in Article 9, Rule 8 (Contracts Due on Certain Business Days).
- Update the address of the Exchange in Article 22, Rule 2, Interpretation and Policies .01.

Fee Schedule

In a conforming change, the Exchange proposes to replace “NYSE Chicago, Inc.” with “NYSE Texas, Inc.” in the heading of the Fee Schedule. The Exchange also proposes to update the date.

Connectivity Fee Schedule

In conforming changes, the Exchange proposes to replace “NYSE Chicago, Inc.” with “NYSE Texas, Inc.” and “NYSE Chicago” with “NYSE Texas” in the title and text of the General Note, Colocation Note 3, and Colocation Note 4. Because NYSE Texas comes after NYSE National in alphabetical order, the Exchange proposes to move it accordingly. The Exchange also proposes to update the date.

Schedule of Market Data Fees

In conforming changes, in the Schedule of Market Data Fees the Exchange proposes to replace “NYSE Chicago” with “NYSE Texas” in notes 3 and 5. The Exchange also proposes to update the date.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²¹ in general, and furthers the objectives of Section 6(b)(1)²² in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,²³ in that it is

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(1).

²³ 15 U.S.C. 78f(b)(5).

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, 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 two changes to the Exchange Bylaws that are substantive are not material. First, the change to Article II, Section 5 is not material because the Exchange will continue to comply with the existing obligations and composition requirements for the Exchange Board, as specified elsewhere in the Exchange Bylaws, its other governing documents and its rules. Second, the change to Article III, Section 6 is not material because (a) the provision and the BOC provide that the proxy can provide for a longer period, which mean it could match the existing Delaware requirement, and (b) Holdings is the sole stockholder of the Exchange, and any change of ownership would be reflected in the Exchange's governing documents²⁴ and Rules,²⁵ therefore requiring that the Exchange file with the Securities and Exchange Commission before making any change in ownership. The remaining proposed amendments are non-substantive changes that do not change or implicate the Exchange's governance as an "exchange" within the meaning of the Act.

The Exchange is not proposing to affect the corporate governance of the Exchange as an "national securities exchange" registered under Section 6 of the Act.²⁶ The proposed changes will not substantively impact the Exchange's existing rules or its current obligations and requirements under its governing documents or the Act, including Section 6(b)(3) of the Act.²⁷ The Exchange is not proposing any changes to its rules or various fee schedules other than the technical amendments to implement the conversion to a Texas corporation and the name change.

The Exchange does not propose to change the fact that Holdings is a corporation organized under the laws of the state of Delaware or the ownership structure of the Exchange.

The Exchange believes that the proposed amendments would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Act and comply and enforce compliance with the provisions of the Act by its members and persons associated with its members, because ensuring that the Exchange Certificate of Formation and Exchange Bylaws, Holdings Certificate

²⁴ See, e.g. the Exchange Certificate of Formation.

²⁵ See, e.g. Article 1, Rule 1(h) (stating that the Exchange is a wholly-owned subsidiary of Holdings, which relationship would not be amended by any of the proposed changes).

²⁶ 15 U.S.C. 78f.

²⁷ 15 U.S.C. 78f(b)(3).

and Holdings Bylaws, Rules, Fee Schedule, Connectivity Fee Schedule and Schedule of Market Data Fees accurately reflect the proposed changes, including the conversion of the Exchange from a Delaware corporation to a Texas corporation and the name changes of the Exchange and Holdings, would contribute to the orderly operation of the Exchange by ensuring the accuracy of, and adding clarity and transparency to, such documents and rules.

The proposed amendments to comport certain provisions of the Exchange Certificate of Formation and Exchange Bylaws with the Texas BOC would facilitate the Exchange's compliance with Texas law, which would further enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

In addition, the proposed amendments would reduce potential investor and market participant confusion and therefore remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that investors and market participants can more easily navigate, understand and comply with the Exchange Certificate of Formation and Exchange Bylaws, Holdings Certificate and Holdings Bylaws, Rules, Fee Schedule, Connectivity Fee Schedule and Schedule of Market Data Fees.

Finally, the proposed amendments to reflect the name changes, to better comport certain provisions with the BOC, update addresses, and effect non-substantive and non-material changes removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from corporate governance provisions that are either unclear or inconsistent with the governing law. The Exchange also believes that the proposed amendments remove impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the governing documents. They would accurately reflect that, by virtue of the conversion, the Exchange will convert from a corporation organized under the laws of the state of Delaware to one organized under the laws of the state of Texas.

For these reasons, the Exchange believes that the proposed rule change is consistent with and facilitates a governance and regulatory structure that furthers the objectives of Section 6(b)(5) of the Act.

4. 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. The proposed rule change is not intended to address competitive issues but rather is concerned solely updating the Exchange's Certificate of Formation and Exchange Bylaws, Holdings Certificate and

Holdings Bylaws, Rules, Fee Schedule, Connectivity Fee Schedule and Schedule of Market Data Fees, to reflect the corporate organizational changes and name change.

5. 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.

6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period specified in Section 19(b)(2)²⁸ of the Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange believes that the proposal qualifies for immediate effectiveness upon filing as a "non-controversial" rule change in accordance with Section 19(b)(3)(A) of the Act²⁹ and Rule 19b-4(f)(6) thereunder.³⁰

The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as the Commission may designate.

The Exchange believes that the proposed rule change would not adversely affect investors or the public interest, as the Exchange is not proposing any amendments to its ownership structure or to its trading rules other than minor technical amendments to implement the transfer to Texas jurisdiction and name changes. Indeed, with the exception of two changes to the Exchange Bylaws, the proposed amendments are non-substantive changes, and all of them are not material. Rather, they would contribute to the orderly operation of the Exchange by ensuring the accuracy of, and adding clarity and transparency to, the Exchange Certificate and Exchange Bylaws, Holdings Certificate and Holdings Bylaws, Rules, Fee Schedule, Connectivity Fee Schedule and Schedule of Market Data

²⁸ 15 U.S.C. 78s(b)(2).

²⁹ 15 U.S.C. 78s(b)(3)(A).

³⁰ 17 CFR 240.19b-4(f)(6).

Fees. They would provide clarity to the Exchange's members, which is beneficial to both investors and the public interest.

As noted above, the two changes to the Exchange Bylaws that are substantive are not material. First, the change to Article II, Section 5 is not material because the Exchange will continue to comply with the existing obligations and composition requirements for the Exchange Board, as specified elsewhere in the Exchange Bylaws, its other governing documents and its rules or the Act. Second, the change to Article III, Section 6 is not material because (a) the provision and the BOC provide that the proxy can provide for a longer period, which mean it could match the existing Delaware requirement, and (b) Holdings is the sole stockholder of the Exchange, and any change of ownership would be reflected in the Exchange's governing documents³¹ and Rules,³² therefore requiring that the Exchange file with the Securities and Exchange Commission before making any change in ownership.

The Exchange is not proposing to affect the corporate governance of the Exchange as an "national securities exchange" registered under Section 6 of the Act.³³ The proposed changes will not substantively impact the Exchange's existing rules or its current obligations and requirements under its governing documents or the Act, including Section 6(b)(3) of the Act.³⁴ The Exchange is not proposing any changes to its rules or various fee schedules other than the technical amendments to implement the conversion to a Texas corporation and the name change.

The Exchange further believes that the proposed rule change would not impose a burden on competition because it is not intended to address competitive issues but rather is concerned solely with the administration of the Exchange. Accordingly, the Exchange believes that this rule change is eligible for immediately effective treatment under the Commission's current procedures for processing rule filings.³⁵

For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4.³⁶ At any time within 60 days of the filing of the proposed rule change, the Commission

³¹ See, e.g. Exchange Certificate of Formation.

³² See, e.g. Article 1, Rule 1(h) (stating that the Exchange is a wholly-owned subsidiary of Holdings, which relationship would not be amended by any of the proposed changes).

³³ 15 U.S.C. 78f.

³⁴ 15 U.S.C. 78f(b)(3).

³⁵ See Securities Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40144 (July 11, 2008) (concerning 17 CFR 200 and 241).

³⁶ Id.

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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register

Exhibit 5. Text of Proposed Rule Change

- A. Text of the Third Amended and Restated Certificate of Incorporation of NYSE Chicago, Inc.
- B. Text of the Proposed Certificate of Formation of NYSE Texas, Inc.
- C. Text of the Proposed Bylaws of NYSE Texas, Inc.
- D. Text of the Proposed Fourth Amended and Restated Certificate of Incorporation of NYSE Chicago Holdings, Inc.
- E. Text of the Proposed Fourth Amended and Restated Bylaws of NYSE Texas Holdings, Inc.
- F. Text of the Proposed Rules of NYSE Texas, Inc.
- G. Text of the Proposed Fee Schedule of NYSE Texas, Inc.
- H. Text of the Proposed Connectivity Fee Schedule
- I. Text of the Proposed NYSE Proprietary Market Data Fees