

SECURITIES AND EXCHANGE COMMISSION
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December 29, 2006

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Regarding Proposed Combination Between NYSE Group, Inc. and Euronext N.V.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 29, 2006, the New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially 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, a New York limited liability company, registered national securities exchange and self-regulatory organization is submitting this rule filing (the “Proposed Rule Change”) to the SEC in connection with the proposed business combination (the “Combination”) of NYSE Group, Inc., a Delaware corporation (“NYSE Group”), with Euronext N.V., a company organized under the laws of The Netherlands (“Euronext”). As a result of the Combination, the businesses of NYSE Group (including that of the Exchange and NYSE Arca, Inc., a Delaware corporation, registered national securities exchange and self-regulatory organization (“NYSE Arca”)) and Euronext will be held under a single, publicly traded holding company named

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

NYSE Euronext, a Delaware corporation (“NYSE Euronext”). Following the Combination, each of NYSE Group and Euronext (or a successor Dutch holding company) will be a separate subsidiary of NYSE Euronext, and their respective businesses and assets will continue to be held as they are currently held (subject to any post-closing reorganization of Euronext). A core aspect of the structure of the Combination is continued local regulation of the marketplaces.

Accordingly, the Combination is premised on the notion that companies listing their securities only on markets operated by Euronext and its subsidiaries will not become newly subject to U.S. laws (including, without limitation, the Sarbanes-Oxley Act of 2002) or regulation by the SEC as a result of the Combination, and that companies listing their securities only on the Exchange or NYSE Arca, will not become newly subject to European rules or regulation as a result of the Combination. In addition, “members” and “member organizations” (each as defined in the rules of the Exchange) of the Exchange, “ETP holders” and “Authorized Traders” (each as defined in the Rules of NYSE Arca Equities) of NYSE Arca Equities, Inc. (“NYSE Arca Equities”), and “OTP Firms” and “OTP Holders” (each as defined in the Rules of NYSE Arca) of NYSE Arca, in each case trading only on markets operated by the Exchange or NYSE Arca will not become newly subject to European rules or regulations as a result of the Combination, and members of the markets operated by Euronext and its subsidiaries will not become newly subject to U.S. laws or regulation by the SEC as a result of the Combination. The Proposed Rule Change, if approved by the SEC, will not be operative until the consummation of the Combination.

Other than as described herein, NYSE Euronext will not be seeking to make any changes to the regulated activities of NYSE Group and its subsidiaries in connection with the Combination. If NYSE Euronext determines to make any such changes, it will seek SEC approval to the extent required.

The Exchange proposes that the organizational documents of NYSE Euronext, NYSE Group,³ the Exchange, NYSE Market, Inc. and NYSE Regulation, Inc. be revised to reflect the Combination, and that such organizational documents become operative upon consummation of the Combination. In addition, the Exchange proposes various amendments to its rules (as such rules may be in effect from time to time, the “Exchange Rules”) to reflect the Combination.

The text of the Proposed Rule Change is available at the NYSE, the Commission’s Public Reference Room, and on the Exchange’s Web site (<http://www.nyse.com>). The text of Exhibits 5A through 5M of the Proposed Rule Change are also available on the Exchange’s Web site and on the Commission’s Web site (<http://www.sec.gov/rules/sro.shtml>).

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. 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.

³ Upon the consummation of the Combination, NYSE Group will be merged with and into Jefferson Merger Sub, Inc. and the name of Jefferson Merger Sub, Inc. will be changed to NYSE Group, Inc. The changes to the NYSE Group organizational documents refer to changes from the current NYSE Group organizational documents. Technically, however, the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of NYSE Group that will be operative upon the consummation of the Combination will be amended and restated forms of the Certificate of Incorporation and Bylaws of Jefferson Merger Sub, Inc.

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

1. Purpose

The Exchange, a New York limited liability company, registered national securities exchange and self-regulatory organization, is submitting this Proposed Rule Change to the SEC in connection with the Combination of NYSE Group with Euronext. As a result of the Combination, the businesses of NYSE Group (including that of the Exchange and NYSE Arca and Euronext will be held under a single, publicly traded holding company named NYSE Euronext. Following the Combination, each of NYSE Group and Euronext (or a successor Dutch holding company) will be a separate subsidiary of NYSE Euronext, and their respective businesses and assets will continue to be held as they are currently held (subject, in the case of Euronext, to any Post-Closing Reorganization as described in the next paragraph below). Other than as described herein, NYSE Euronext will not be seeking to make any changes to the regulated activities of NYSE Group, Euronext or their respective subsidiaries in connection with the Combination. If NYSE Euronext determines to make any such changes to the regulated activities of NYSE Group or its subsidiaries, it will seek approval of the SEC to the extent required. If NYSE Euronext determines to make any changes to the regulated activities of Euronext or its subsidiaries in connection with the Combination, it will seek approval of the applicable European Regulators (as defined below) to the extent required. The Proposed Rule Change, if approved by the SEC, will not be operative until the consummation of the Combination.

The Combination will occur pursuant to the terms of the Combination Agreement, dated as of June 1, 2006, as amended and restated as of November 24, 2006 (as may be amended from time to time, the "Combination Agreement"), by and among NYSE Group, Euronext, NYSE

Euronext and Jefferson Merger Sub, Inc., a Delaware corporation and newly formed wholly owned subsidiary of NYSE Euronext (“Merger Sub”). Subject to the terms and conditions set forth in the Combination Agreement and in compliance with applicable law, NYSE Euronext will commence an offer to acquire all of the outstanding ordinary shares of Euronext for a combination of NYSE Euronext common stock and cash (the “Exchange Offer”). Upon successful completion of the Exchange Offer,⁴ NYSE Group will merge with Merger Sub (the “Merger”), and the surviving entity will be a wholly owned subsidiary of NYSE Euronext. NYSE Euronext intends, simultaneously with or as soon as possible after the completion of the Merger and assuming approval by the necessary vote of Euronext shareholders, to effect a corporate reorganization of Euronext and/or its subsidiaries (the “Post-Closing Reorganization”) intended to result in Euronext becoming a wholly owned subsidiary of NYSE Euronext. The Post-Closing Reorganization may include, but is not limited to, a compulsory acquisition by NYSE Euronext of the Euronext ordinary shares from any remaining minority shareholder in accordance with Dutch law and the rules of the French Financial Market Authority, a liquidation of Euronext, a merger of Euronext, or a combination thereof.

The Euronext shareholders and the NYSE Group stockholders voted to approve the Combination Agreement and the transactions contemplated by the Combination Agreement (including the Combination) on December 19, 2006 and December 20, 2006, respectively. The prospectus used as part of the shareholder circular in connection with obtaining the Euronext

⁴ The successful completion of the Exchange Offer shall require that at least two-thirds of the outstanding Euronext ordinary shares shall have been tendered in the Exchange Offer; provided that, prior to filing the Exchange Offer with the French Financial Market Authority (Autorité des Marchés Financiers), NYSE Euronext shall have the right, after consultation with Euronext, to reduce this minimum condition so that it is no less than a majority of the outstanding Euronext ordinary shares.

shareholder approval, the proxy statement/prospectus used in connection with obtaining the NYSE Group stockholder approval, and the prospectus that will be used in connection with the Exchange Offer for U.S. holders of Euronext ordinary shares has been filed with the SEC as part of a registration statement of NYSE Euronext on Form S-4.⁵

Other than certain modifications described herein, NYSE Group's current corporate structure and governance and the Exchange's current corporate structure, governance and self-regulatory independence and separation will be preserved. Specifically, after the Combination, NYSE Group's business and assets will continue to be structured as follows:

- The Exchange, which is registered as a national securities exchange and is a self-regulatory organization, will remain a wholly owned subsidiary of NYSE Group. As described in more detail below, the organizational documents of NYSE Group will be amended to reflect that, after the Combination, it will be an intermediate holding company.
- NYSE Market, Inc., a Delaware corporation ("NYSE Market") will remain a wholly owned subsidiary of the Exchange and conduct the Exchange's business. NYSE Regulation, Inc., a New York Type A not-for-profit corporation ("NYSE Regulation"), will remain a wholly owned subsidiary of the Exchange, and continue to perform the regulatory responsibilities for the Exchange pursuant to a delegation agreement with the Exchange and many of the regulatory functions of NYSE Arca pursuant to a services agreement with NYSE Arca. Each of NYSE Euronext, NYSE

⁵ See NYSE Euronext Registration Statement on Form S-4, Registration No. 333-137506 (initially filed on September 21, 2006 and declared effective on November 27, 2006), as amended from time to time (the "Registration Statement").

Group, the Exchange and NYSE Market acknowledges that it is responsible for referring possible rule violations to NYSE Regulation. In addition, there will be an explicit agreement among NYSE Euronext, NYSE Group, the Exchange, NYSE Market and NYSE Regulation to provide adequate funding for NYSE Regulation, as is currently the case among the NYSE Group entities. There will be no change to the current manner of election or appointment of the directors and officers of the Exchange, NYSE Market or NYSE Regulation as a result of the Combination, except for (a) changes in certain organizational documents of the Exchange, NYSE Market and NYSE Regulation to change certain references to NYSE Group to NYSE Euronext, (b) a change to shorten the time period for member organizations to vote for “fair representation” candidates, (c) the addition of a requirement that a majority of the directors of each of the boards of the Exchange, NYSE Market and NYSE Regulation be U.S. Persons (defined below), (d) a change from the requirement that the NYSE Market chief executive officer be the NYSE Group chief executive officer to the requirement that the NYSE Market chief executive officer be a U.S. Person (defined below), as described herein, (e) the deletion of provisions in certain organizational documents relating to the election or appointment of directors during the transition period following the merger between New York Stock Exchange, Inc. and Archipelago Holdings, Inc. in March 2006, and (f) the addition of a requirement that if a vacancy is created on the board of directors of the Exchange, NYSE Market or NYSE Regulation, then the director chosen to fill such vacancy shall be a U.S. Person (defined below). The Combination will have no effect on the ability of any party to trade securities on NYSE Market.

- Archipelago Holdings, Inc., a Delaware corporation (“Arca Holdings”), will remain a wholly owned subsidiary of NYSE Group. NYSE Arca Holdings, Inc., a Delaware corporation (“NYSE Arca Holdings”), and NYSE Arca L.L.C., a Delaware limited liability company (“NYSE Arca LLC”), will remain wholly owned subsidiaries of Arca Holdings. NYSE Arca will remain a wholly owned subsidiary of NYSE Arca Holdings and NYSE Arca Equities, a Delaware corporation formerly known as PCX Equities, Inc., will remain a wholly owned subsidiary of NYSE Arca. NYSE Arca will continue to maintain its status as a registered national securities exchange and self-regulatory organization. Arca Holdings’ businesses and assets will continue to be held by it and its subsidiaries. As noted above, pursuant to a services agreement, NYSE Regulation will perform many of the regulatory functions of NYSE Arca.
- There will be no change to the current manner of election or appointment of the directors and officers of Arca Holdings, NYSE Arca Holdings, NYSE Arca LLC, NYSE Arca or NYSE Arca Equities (or of the Euronext exchanges) as a result of the Combination. The Combination will have no effect on the ability of any party to trade securities on NYSE Arca or NYSE Arca Equities.

Similarly, Euronext and its subsidiaries will continue to operate their business and operations in substantially the same manner as they are conducted currently, with any changes subject to the approval of the European Regulators to the extent required.

A core aspect of the structure of the Combination is continued local regulation of the marketplaces. Accordingly, the Combination is premised on the notion that:

- NYSE Group and its subsidiaries will continue to be regulated by the SEC (but will not be regulated by the European Regulators unless NYSE Group and its subsidiaries

- engage in activities in Europe within the jurisdiction of the European Regulators), and Euronext and its subsidiaries will continue to be regulated by the European Regulators (but will not be regulated by the SEC unless Euronext and its subsidiaries engage in activities in the United States within the jurisdiction of the SEC);
- companies listing their securities only on markets operated by Euronext and its subsidiaries will not become newly subject to U.S. laws or regulation by the SEC as a result of the Combination, and companies listing their securities only on the Exchange or NYSE Arca, will not become newly subject to European rules or regulation as a result of the Combination;
 - the Combination will not cause companies that currently trade only on a Euronext exchange and are not subject to the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act”) to become subject to the Sarbanes-Oxley Act unless those companies decide to list their securities on the Exchange, NYSE Arca or another U.S. securities exchange or register the sale of their securities under the U.S. Securities Act of 1933, as amended (the “Securities Act”) or register a class of securities under the Exchange Act⁶; and
 - “members” and “member organizations” (each as defined in the rules of the Exchange) of the Exchange, “ETP Holders” and “Authorized Traders” of NYSE Arca Equities (each as defined in the Rules of NYSE Arca Equities), and “OTP Firms” and

⁶ A company is subject to the Sarbanes-Oxley Act only if (a) its securities are registered under Section 12 of the Exchange Act, (b) the company is required to file reports under Section 15(d) of the Exchange Act or (c) files or has filed a registration statement that has not yet become effective under the Securities Act, and such registration statement has not been withdrawn. See Section 2(a)(7) of the Sarbanes-Oxley Act.

“OTP Holders” (each as defined in the Rules of NYSE Arca) of NYSE Arca trading only on markets operated by the Exchange or NYSE Arca will not become newly subject to European rules or regulations as a result of the Combination, and members of the markets operated by Euronext and its subsidiaries will not become newly subject to U.S. laws or regulation by the SEC as a result of the Combination.

Purpose of the Combination

The Combination will create a holding company, NYSE Euronext, under which the businesses of the NYSE Group and Euronext will be held.⁷ The Exchange expects that, after the Combination, the combined company will have much greater flexibility and ability to respond to global competition. The combination of the businesses of the NYSE Group and Euronext under a single holding company also has the advantage of creating a diversified business model for the combined company. The Combination will leverage the best of NYSE Group’s and Euronext’s collective technology sourced in an efficient manner to realize expected synergies of the Combination.

Corporate Structure

NYSE Euronext

Following the Combination, NYSE Euronext will be a for-profit, publicly traded stock corporation and will act as a holding company for the businesses of the NYSE Group and Euronext. NYSE Euronext will hold all of the equity interests in NYSE Group and its subsidiaries, including the Exchange and NYSE Arca, and a majority (if not all) of the equity interests in Euronext and its respective subsidiaries. NYSE Euronext common stock will be

⁷ The Combination, however, will not result in an actual combination of the various exchanges owned by NYSE Group and Euronext.

listed on both the Exchange, trading in U.S. dollars, and Euronext Paris, trading in euros. The NYSE Euronext group's U.S. headquarters will be in New York, New York, and its international headquarters will be in Paris, France and Amsterdam, The Netherlands.

NYSE Group owns two U.S. registered national securities exchanges: the Exchange and NYSE Arca, providing marketplaces where investors buy and sell listed companies' common stock and other securities as well as equity options and securities traded on the basis of unlisted trading privileges. NYSE Regulation regulates members and member organizations of the Exchange and ETP Holders and Authorized Traders of NYSE Arca Equities and OTP Firms and OTP Holders of NYSE Arca through the enforcement of exchange rules and U.S. federal securities laws. NYSE Regulation also reviews companies listed on the NYSE and NYSE Arca to ascertain their compliance with financial and corporate governance listing standards.

Euronext owns a group of European exchanges, including trading operations on regulated and non-regulated markets for cash products in France, Belgium, The Netherlands, and Portugal and derivatives in the United Kingdom and in the four above-mentioned locations. As a result, the activities of the Euronext markets are or may be subject to the jurisdiction and authority of a number of European regulators, including the Dutch Minister of Finance, the French Minister of the Economy, the French Financial Market Authority (Autorité des Marchés Financiers), the Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten), the Belgian Banking, Finance, and Insurance Commission (Commission Bancaire, Financière, et des Assurances), the French Committee of Credit Establishments and Investment Undertakings (Comité des Etablissements de Crédit et des Entreprises d'Investissement – CECEI), the Portuguese Securities Market Commission (Comissão do Mercado de Valores Mobiliários – CMVM) and the U.K. Financial Services Authority (FSA) (together with any other governmental

securities regulator in any European country where NYSE Euronext or any European Market Subsidiary⁸ operates a European Regulated Market and in each case only to the extent that it has authority and jurisdiction in the particular context, the “European Regulators”).

NYSE Euronext Board of Directors

It is currently contemplated that immediately after the Combination, the NYSE Euronext board of directors will consist of 22 directors as follows:

- 11 directors will be the directors of NYSE Group as of immediately prior to the completion of the Combination (including the chief executive officer and chairman of the board of NYSE Group);
- nine directors will be members of the supervisory board of Euronext⁹ as of immediately prior to the completion of the Combination (including the chairman of the Euronext supervisory board); provided that Euronext may substitute one or more such individuals from the supervisory board with persons who are European Persons as long as such newly designated person is reasonably acceptable to NYSE Group;
- one director will be the chief executive officer of Euronext as of immediately prior to the completion of the Combination; and
- the remaining director will be Sylvain Hefes, who is a European Person (as defined below) approved by both the NYSE Group board of directors and the Euronext supervisory board.

⁸ See proposed Amended and Restated NYSE Euronext Bylaws, Article VII, Section 7.3(D).

⁹ The supervisory board of a Dutch company is the functional equivalent of a board of directors of a U.S. company, but is not permitted to include members of management.

The size of the NYSE Euronext board of directors may be changed by the NYSE Euronext board of directors pursuant to a resolution adopted by two-thirds of the directors then in office or a vote of not less than 80% of the votes entitled to be cast by the holders of the then-outstanding shares of capital stock of NYSE Euronext entitled to vote generally in the election of directors, voting together as a single class.

The proposed Amended and Restated NYSE Euronext Bylaws will provide that the NYSE Euronext board of directors may be composed of either: (1) an equal number of U.S. Persons and European Persons or (2) the smallest possible majority of U.S. Persons and the largest possible minority of European Persons. Specifically, in any election of directors, the nominees whom shall be elected to the NYSE Euronext board of directors shall be nominees who receive the highest number of votes such that, immediately after such election, (1) U.S. Persons as of such election shall constitute at least half of, and no more than the smallest number of directors that will constitute a majority of, the directors on the NYSE Euronext board of directors and (2) European Persons as of such election shall constitute the remainder of the directors on the NYSE Euronext board of directors.¹⁰

The initial NYSE Euronext board of directors will contain an equal number of U.S. Persons and European Persons, and this parity will be maintained unless the nominating and governance committee and the board of directors of NYSE Euronext, both equally composed of U.S. Persons and European Persons, decide otherwise or unless the Amended and Restated NYSE Euronext bylaws are amended by a supermajority vote.

For purposes of the proposed Amended and Restated NYSE Euronext Bylaws:

¹⁰ See proposed Amended and Restated NYSE Euronext Bylaws, Article III, Section 3.2(A).

- a “European Person” shall mean, as of the date of his or her most recent election or appointment as a director, any person whose domicile as of such date is and for the immediately preceding twenty-four (24) months shall have been a country in Europe;¹¹
- a “U.S. Person” shall mean, as of the date of his or her most recent election or appointment as a director any person whose domicile as of such date is and for the immediately preceding twenty-four (24) months shall have been the United States;¹² and
- “Europe” shall mean: (1) any and all of the jurisdictions in which Euronext or any of its subsidiaries operates a European regulated market; (2) any member state of the European Economic Area as of the Effective Time (as defined in the Combination Agreement) and any state that becomes a member of the European Economic Area after the Effective Time (as defined in the Combination Agreement); and (3) Switzerland.¹³

The initial term of directors will end with the first annual stockholders meeting to be held by NYSE Euronext, at which meeting the existing directors of NYSE Euronext will be renominated as directors of NYSE Euronext. Thereafter, the directors will serve one-year terms. Nominees to the NYSE Euronext board of directors will be nominated by the nominating and

¹¹ See proposed Amended and Restated NYSE Euronext Bylaws, Article III, Section 3.2(A).

¹² See proposed Amended and Restated NYSE Euronext Bylaws, Article III, Section 3.2(A).

¹³ See proposed Amended and Restated NYSE Euronext Bylaws, Article VII, Section 7.3(F).

governance committee of the NYSE Euronext board of directors, which committee shall be comprised of an equal number of European Persons and U.S. Persons.

The proposed Amended and Restated NYSE Euronext Bylaws will also provide that either (1) the chairman of the board shall be a U.S. Person and the chief executive officer shall be a European Person or (2) the chairman of the board shall be a European Person and the chief executive officer shall be a U.S. Person.¹⁴ Accordingly, the offices of the chairman and chief executive officer of NYSE Euronext may not be occupied simultaneously by the same person. The chief executive officer and deputy chief executive officer may be, but are not required to be, members of the board of directors of NYSE Euronext. A director may serve for any number of terms, consecutive or otherwise. Directors need not be stockholders of NYSE Euronext.

Under Section 3.4 of the proposed Amended and Restated NYSE Euronext Bylaws, all members of the NYSE Euronext board of directors (other than the chief executive officer and deputy chief executive officer of NYSE Euronext if they are members of the board of directors) must satisfy the independence requirements set forth in NYSE Euronext's director independence policy, as amended from time to time.¹⁵

¹⁴ See proposed Amended and Restated NYSE Euronext Bylaws, Article III, Section 3.3.

¹⁵ The chief executive officer and deputy chief executive officer, if they are members of the board of directors, will be recused from any act of the board of directors, whether it is acting as the board of directors or as a committee of the board, with respect to any act of any board committee that is required to be comprised solely of independent directors. See proposed Amended and Restated NYSE Euronext Bylaws, Article III, Section 3.4. To clarify and continue NYSE Group board's current practice of soliciting the input of NYSE Group management for certain board and committee matters, the Exchange proposes to use the word "acts" instead of the word "deliberations" and "acts" instead of the word "activities" (each of which are currently used in the Amended and Restated Bylaws of NYSE Group). This same clarification to board practice will also be made to the current Bylaws of NYSE Market and the current Amended and Restated Bylaws of NYSE Regulation.

The independence policy of the NYSE Euronext board of directors will be substantially similar to the current SEC-approved independence policy of the NYSE Group board of directors,¹⁶ except that:

- the deputy chief executive officer, in addition to the chief executive officer, may serve as a director of NYSE Euronext;
- with respect to broker-dealers that are not members of the Exchange or NYSE Arca, the independence policy only applies to broker-dealers registered under the Exchange Act or persons employed or affiliated with such broker-dealers, including European affiliates (but not purely non-U.S. broker-dealers);
- the independence policy does not per se prohibit executive officers of Exchange-listed and NYSE Arca-listed companies that are “foreign private issuers” (as defined under Rule 3b-4 under the Exchange Act) from serving as independent directors of NYSE Euronext; and
- there will be a transition period so that the independence requirements of the NYSE Euronext director independence policy will not apply to the European Persons on the NYSE Euronext board of directors until the annual meeting of NYSE Euronext stockholders in 2008.¹⁷

¹⁶ See Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006).

¹⁷ Unlike the members of the NYSE Group board of directors, currently the Euronext supervisory board members are not subject to an independence policy similar to the proposed independence policy of NYSE Euronext. It is important that the former Euronext Supervisory Board members be permitted to serve on the initial Board of Directors of NYSE Euronext because of their depth of experience with the Euronext markets. The transition period is designed to allow for this. Any potential issues created by the transition period are expected to be mitigated by the fact that, upon the

Specifically, under the director independence policy, each member of the NYSE Euronext board of directors, other than the chief executive officer and deputy chief executive officer of NYSE Euronext, will be required to be independent from (1) NYSE Euronext and its subsidiaries (including NYSE Group, Euronext and their respective subsidiaries), (2) any members or member organizations of the Exchange, NYSE Arca, or NYSE Arca Equities,¹⁸ (3) any non-member broker-dealer that is registered under the Exchange Act and engages in business involving substantial direct contact with securities customers and (4) any issuer of securities listed on the Exchange or NYSE Arca, unless such issuer is a “foreign private issuer” as defined under Rule 3b-4 promulgated under the Exchange Act.

In contrast to the current independence policy of NYSE Group, the independence policy of NYSE Euronext will not provide as a categorical matter that a person fails to be independent if he or she is an executive officer of a foreign private issuer of securities listed on the Exchange or NYSE Arca. The Exchange believes that this change is important because NYSE Euronext will be a multinational company, with European Persons comprising half of its initial directors, most of whom will initially be former directors of Euronext. Euronext does not prohibit executive officers of companies listed on Euronext exchanges from serving as directors of Euronext because Euronext does not (and NYSE Euronext will not) regulate these companies in

consummation of the Combination, half of anticipated the board of directors of NYSE Euronext will be composed of former NYSE Group directors, all of which qualify as independent under the NYSE Group Independence Policy.

¹⁸ This would include members, allied members (each as defined in the Exchange Rules) and allied persons (as defined in the NYSE Arca and NYSE Arca Equities Rules), member organizations of the Exchange, OTP Firms and OTP Holders of NYSE Arca (each as defined in the Exchange Rules and the rules of NYSE Arca, respectively, as may be in effect from time to time) and ETP Holders of NYSE Arca Equities (as defined in the rules of NYSE Arca Equities, as may be in effect from time to time).

the way that the Exchange regulates its listed companies. The Exchange therefore believes that a categorical requirement prohibiting all executive officers of foreign private issuers listed on the NYSE on NYSE Arca could preclude a large pool of otherwise highly qualified director candidates from serving on the NYSE Euronext board of directors and is not necessary.

In addition, the director independence policy will contain a transition period so that the independence requirements will not apply to the European Persons on the NYSE Euronext board of directors until the annual meeting of NYSE Euronext stockholders in 2008.

Finally, in contrast to the current independence policy of NYSE Group, the independence policy of NYSE Euronext will not provide as a categorical matter that a person fails to be independent if he or she is a director of an affiliate of a member organization (which includes member organizations of New York Stock Exchange LLC (as defined in paragraph (b) of Rule 2 of New York Stock Exchange LLC), OTP Firms of NYSE Arca (as defined in Rules 1.1(r) of NYSE Arca) and ETP Holders of NYSE Arca Equities, Inc. (as defined in Rule 1.1(n) of NYSE Arca Equities, Inc.)). In addition, Rule 2B of the Exchange will be amended to clarify that, if a director of an affiliate of a member organization serves as a director of NYSE Euronext, this fact shall not cause such member organization to be an affiliate of the Exchange, or an affiliate of an affiliate of the Exchange.

The independence policy of NYSE Euronext will require, however, that (1) executive officers of foreign private issuers (including, for the avoidance of doubt, companies whose securities are listed on a Euronext exchange), (2) executive officers of NYSE Euronext, (3) any European Person on the NYSE Euronext board of directors who would not satisfy the independence requirements in the independence policy but for the transition period, and (4) any director of an affiliate of a member organization, taken together, shall constitute no more than a

minority of the total number of directors of NYSE Euronext. In addition, none of (1) an executive officer of an issuer whose securities are listed on the Exchange or NYSE Arca (regardless of whether such issuer is a foreign private issuer), (2) a European Person on the NYSE Euronext board of directors who would not satisfy the independence requirements in the independence policy but for the transition period, or (3) any director of an affiliate of a member organization can qualify as an independent director of the Exchange, NYSE Market or NYSE Regulation. Consequently, the Exchange believes that the proposed changes, when taken together, do not present significant concerns regarding the independence of the board of NYSE Euronext.

The Exchange proposes that each of the Amended and Restated Operating Agreement of the Exchange, the Amended and Restated Bylaws of NYSE Market and the Amended and Restated Bylaws of NYSE Regulation be amended so that each reference to the independence policy or requirements of NYSE Group shall be replaced with a reference to the independence policy or requirements of NYSE Euronext.

Committees of NYSE Euronext Board of Directors

After the Combination, the NYSE Euronext board of directors may create one or more committees. It is expected that, upon completion of the Combination, the NYSE Euronext board of directors will initially have the following three standing committees: (1) an audit committee; (2) a human resource and compensation committee; and (3) a nominating and governance committee. These committees also will perform relevant functions for NYSE Group, the Exchange, NYSE Market, NYSE Regulation, Arca Holdings, NYSE Arca and NYSE Arca Equities, as well as other subsidiaries of NYSE Euronext, except that the board of directors of

NYSE Regulation will continue to have its own compensation and nominating and governance committees.

Each of the audit committee, nominating and governance committee and human resources and compensation committee of the NYSE Euronext board of directors will consist solely of directors meeting the independence requirements of NYSE Euronext. As a result, neither the chief executive officer nor the deputy chief executive officer of NYSE Euronext will be permitted to serve on any of these committees. The NYSE Euronext board of directors will review and adopt a charter for each of these committees annually. Immediately after the Combination, the nominating and governance committee of NYSE Euronext will be comprised of an equal number of persons who were directors of NYSE Group and directors of Euronext, in each case as of immediately prior to the Combination, and the Amended and Restated Bylaws of NYSE Euronext will provide that the nominating and governance committee will be comprised of an equal number of U.S. Persons and European Persons.

NYSE Euronext Management

NYSE Euronext will also have a management committee. As of the consummation of the Combination, the management committee will consist of fourteen members, with an equal number of members designated by NYSE Group and Euronext and will include the chief executive officer of NYSE Group and the chief executive officer of Euronext, in each case as of immediately prior to the Combination.

The management committee will be primarily responsible for managing the strategic and high-level business and affairs of NYSE Euronext, subject to the oversight of the NYSE Euronext board of directors, and except as discussed below in relation to NYSE Regulation. The only members of the senior management team of NYSE Euronext who will also serve as

directors of NYSE Euronext are the chief executive officer and deputy chief executive officer of NYSE Euronext. The chief executive officer of NYSE Regulation will attend as appropriate meetings of the board of directors of NYSE Euronext and each of NYSE Group, the Exchange, NYSE Market, NYSE Arca L.L.C., NYSE Arca or NYSE Arca Equities, and also will not be prohibited from meeting with management of NYSE Euronext and each of NYSE Group, the Exchange, NYSE Market, NYSE Arca L.L.C., NYSE Arca or NYSE Arca Equities. However, he or she will not be an officer or employee of any affiliated entity other than NYSE Regulation and will report solely to the NYSE Regulation board of directors.

Voting and Ownership Limitations of NYSE Euronext Stock

The proposed Amended and Restated NYSE Euronext Certificate of Incorporation will place certain restrictions on the ability to vote and own shares of common stock of NYSE Euronext. Under the proposed Amended and Restated Certificate of Incorporation of NYSE Euronext, no person (either alone or together with its related persons¹⁹) will be entitled to vote or

¹⁹ A “related person” means, with respect to any person, (i) any “affiliate” of such person (as such term is defined in Rule 12b-2 under the Exchange Act); (ii) any other person(s) with which such first person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the stock of NYSE Euronext; (iii) in the case of a person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Exchange Act) or director of such person and, in the case of a person that is a partnership or a limited liability company, any general partner, managing member or manager of such person, as applicable; (iv) in the case of a person that is a “member organization” (as defined in the Exchange Rules), any “member” (as defined in the Exchange Rules) that is associated with such person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act); (v) in the case of a person that is an OTP Firm, any OTP Holder that is associated with such person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act); (vi) in the case of a person that is a natural person, any relative or spouse of such natural person, or any relative of such spouse who has the same home as such natural person or who is a director or officer of NYSE Euronext or any of its parents or subsidiaries; (vii) in the case

cause the voting of shares of stock of NYSE Euronext beneficially owned by such person or its related persons, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than 10% of the then outstanding votes entitled to be cast on such matter, and no person (either alone or together with its related persons) may acquire the ability to vote more than 10% of the then outstanding votes entitled to be cast on any such matter by virtue of agreements or arrangements entered into with other persons not to vote shares of NYSE Euronext's outstanding capital stock. NYSE Euronext shall disregard any such votes purported to be cast in excess of this limitation.²⁰

In addition, under the proposed Amended and Restated NYSE Euronext Certificate of Incorporation, no person (either alone or together with its related persons) may at any time beneficially own shares of stock of NYSE Euronext representing in the aggregate more than 20% of the then outstanding votes entitled to be cast on any matter.²¹

of a person that is an executive officer (as defined under Rule 3b-7 under the Exchange Act), or a director of a company, corporation or similar entity, such company, corporation, or entity, as applicable; (viii) in the case of a person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability company, as applicable; (ix) in the case of a person that is a "member" (as defined in the Exchange Rules), the "member organization" (as defined in the Exchange Rules) with which such person is associated (as determined using the definition of "person associated with a member" as defined under Section 3(a)(21) of the Exchange Act); and (x) in the case of a person that is an OTP Holder, the OTP Firm with which such person is associated (as determined using the definition of "person associated with a member" as defined under Section 3(a)(21) of the Exchange Act). See proposed Amended and Restated NYSE Euronext Certificate of Incorporation, Article V, Section 1(L).

²⁰ See proposed Amended and Restated NYSE Euronext Certificate of Incorporation, Article V, Section 1(A).

²¹ See proposed Amended and Restated NYSE Euronext Certificate of Incorporation, Article V, Section 2(A).

In the event that a person, either alone or together with its related persons, beneficially owns shares of stock of NYSE Euronext in excess of the 20% threshold, such person and its related persons will be obligated to sell promptly, and NYSE Euronext will be obligated to purchase promptly, at a price equal to the par value of such shares of stock and to the extent that funds are legally available for such purchase, that number of shares necessary to reduce the ownership level of such person and its related persons to below the permitted threshold, after taking into account that such repurchased shares will become treasury shares and will no longer be deemed to be outstanding.²²

The NYSE Euronext board of directors will have the right to waive the provisions regarding voting and ownership limits applicable to any person by a resolution expressly permitting this voting or ownership (which resolution must be filed with and approved by the SEC under Section 19 of the Exchange Act and filed with and approved by each European Regulator having appropriate jurisdiction and authority), subject to a determination by the NYSE Euronext board of directors that the exercise of such voting rights (or the entering into of a voting agreement) or ownership, as applicable:

- will not impair the ability of any of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca L.L.C., NYSE Arca or NYSE Arca Equities (each, a “U.S. Regulated Subsidiary” and together, the U.S. Regulated Subsidiaries”), NYSE Euronext or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity) to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder;

²² See proposed Amended and Restated NYSE Euronext Certificate of Incorporation, Article V, Section 2(D).

- will not impair the ability of any of the European Market Subsidiaries or NYSE Euronext or Euronext (if and to the extent that Euronext continues to exist as a separate entity) to discharge their respective responsibilities under the European Exchange Regulations;²³
- is otherwise in the best interest of NYSE Euronext, its stockholders, the U.S. Regulated Subsidiaries and the European Market Subsidiaries; and

²³

See proposed Amended and Restated NYSE Euronext Bylaws, Article VII, Section 7.3(B).

“European Exchange Regulations” are defined as (1) laws providing for the regulation of securities exchanges in France, the Netherlands, Belgium, Portugal and the United Kingdom and (2) following the formation or acquisition by Euronext of any European Regulated Market not owned and operated by Euronext as of the Effective Time (as defined in the Combination Agreement), laws providing for the regulation of securities exchanges in the jurisdiction in which such European Regulated Market operates; *provided* that (a) the formation or acquisition of such European Regulated Market shall have been approved by the Board of Directors of NYSE Euronext and (b) the jurisdiction in which such European Regulated Market operates is represented in the Euronext College of Regulators.

“European Market Subsidiary” (and collectively, the “European Market Subsidiaries”) shall mean any “market operator” (as defined by the European Directive on Markets in Financial Instruments 2004/39 EC) that is (1) owned by Euronext as of the Effective Time (as defined in the Combination Agreement) and continues to be owned directly or indirectly by NYSE Euronext; or (2) acquired by Euronext after the Effective Time (as defined in the Combination Agreement); *provided* that, in the case of clause (2), the acquisition of such entity shall have been approved by the Board of Directors of NYSE Euronext and the jurisdiction in which such European Market Subsidiary operates is represented in the Euronext College of Regulators.

“Euronext College of Regulators” means (1) the Committee of Chairmen of the French Financial Market Authority (Autorité des Marchés Financiers), the Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten), the Belgian Banking, Finance, and Insurance Commission (Commission Bancaire, Financière, et des Assurances), the Portuguese Securities Market Commission (Comissão do Mercado de Valores Mobiliários – CMVM), and the U.K. Financial Services Authority (FSA), pursuant to the Memoranda of Understanding, dated March 3, 2003 and March 22, 2001, and (2) a successor body thereto created to include a European Regulator that regulates a European Market Subsidiary.

- will not impair the SEC’s ability to enforce the Exchange Act or the European Regulators’ ability to enforce the European Exchange Regulations.

In making these determinations, the NYSE Euronext board of directors may impose conditions and restrictions on the relevant stockholder or its related persons that it deems necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act, European Exchange Regulations and its governance. Any such waiver would be tantamount to a proposed rule change subject to approval by the SEC, and if applicable, the European Regulators. However, the NYSE Euronext board of directors may not waive the voting and ownership limits above the 20% threshold for any person if such person or its related persons is:

- for so long as NYSE Euronext directly or indirectly controls the Exchange or NYSE Market, a “member” or “member organization” (as defined in Exchange Rules);
- for so long as NYSE Euronext directly or indirectly controls NYSE Arca, NYSE Arca Equities or any facility of NYSE Arca, an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca, as such rules may be in effect from time to time) of NYSE Arca Equities or an OTP Holder or an OTP Firm (each as defined in the rules of NYSE Arca, as such rules may be in effect from time to time) of NYSE Arca; or
- subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act) (a “U.S. Disqualified Person”) or has been determined by a European Regulator to be in violation of laws or regulations adopted in accordance with the European Directive on Markets in Financial Instruments applicable to any European Market Subsidiary requiring such person to act fairly, honestly and professionally (a “European Disqualified Person”).

The proposed Amended and Restated NYSE Euronext Certificate of Incorporation will also require any stockholder that the NYSE Euronext board of directors reasonably believes to be subject to the voting or ownership restrictions summarized above, and any person (either alone or together with its related persons) that at any time beneficially owns 5% or more of NYSE Euronext's outstanding capital stock (which ownership has not been reported to NYSE Euronext), to provide to NYSE Euronext, upon the request of the NYSE Euronext board of directors, complete information as to all shares of stock of NYSE Euronext beneficially owned by such person and its related persons, and any other factual matters relating to the applicability or effect of the voting and ownership limitations outlined above as may be reasonably requested of such person and its related persons.²⁴

Protection of Self-Regulatory Functions and Oversight

The proposed Amended and Restated NYSE Euronext Bylaws will contain several other provisions designed to protect the independence of the self-regulatory function of the U.S. Regulated Subsidiaries and the European Market Subsidiaries.

The proposed Amended and Restated NYSE Euronext Bylaws require that, in discharging his or her responsibilities as a member of the board, each director of NYSE Euronext must, to the fullest extent permitted by applicable law, take into consideration the effect that NYSE Euronext's actions would have on the ability of the U.S. Regulated Subsidiaries to carry out their responsibilities under the Exchange Act, on the ability of the European Market Subsidiaries to carry out their responsibilities under the European Exchange Regulations as

²⁴ See proposed Amended and Restated NYSE Euronext Certificate of Incorporation, Article V, Section 4.

operators of European Regulated Markets, and on the ability of NYSE Group, the U.S. Regulated Subsidiaries and NYSE Euronext to:

- engage in conduct that fosters and does not interfere with the ability of NYSE Group, the U.S. Regulated Subsidiaries and NYSE Euronext to prevent fraudulent and manipulative acts and practices in the securities markets;
- promote just and equitable principles of trade in the securities markets;
- foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities;
- remove impediments to and perfect the mechanisms of a free and open market in securities and a U.S. national securities market system; and
- in general, to protect investors and the public interest.²⁵

Moreover, the proposed Amended and Restated NYSE Euronext Bylaws provide that each director, officer, and employee of NYSE Euronext, in discharging his or her responsibilities in such capacity, shall (1) comply with the U.S. federal securities laws, the European Exchange Regulations, and the respective rules and regulations thereunder; (2) cooperate with the SEC and the European Regulators; and (3) cooperate with the U.S. Regulated Subsidiaries and the European Market Subsidiaries pursuant to, and to the extent of, their regulatory authority.²⁶

The proposed Amended and Restated NYSE Euronext Bylaws provide that, to the fullest extent permitted by applicable law, all confidential information pertaining to (1) the self-regulatory function of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca and NYSE

²⁵ See proposed Amended and Restated NYSE Euronext Bylaws, Article III, Section 3.15.

²⁶ See proposed Amended and Restated NYSE Euronext Bylaws, Article III, Section 3.15.

Arca Equities (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of any of the U.S. Regulated Subsidiaries, and (2) the self-regulatory function of the European Market Subsidiaries under the European Exchange Regulations as operator of a European Regulated Market (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the European Market Subsidiaries, that shall come into the possession of NYSE Euronext shall:

- not be made available to any persons other than to those officers, directors, employees and agents of NYSE Euronext that have a reasonable need to know the contents thereof;
- be retained in confidence by NYSE Euronext and its officers, directors, employees and agents; and
- not be used for any commercial purposes.²⁷

Notwithstanding the foregoing, nothing in the Amended and Restated NYSE Euronext Bylaws shall be interpreted so as to limit or impede:

- the rights of the European Regulators or any of the European Market Subsidiaries to have access to and examine such confidential information pursuant to European Exchange Regulations;
- the rights of the SEC or any of the U.S. Regulated Subsidiaries to have access to and examine such confidential information pursuant to the U.S. federal securities laws and the rules and regulations thereunder; or

²⁷ See proposed Amended and Restated NYSE Euronext Bylaws, Article VIII.

- the ability of any officers, directors, employees or agents of NYSE Euronext to disclose such confidential information to the SEC or the U.S. Regulated Subsidiaries or the European Regulators or the European Market Subsidiaries.²⁸

NYSE Euronext's books and records shall be subject at all times to inspection and copying by (a) the SEC, (b) each of the European Regulators, (c) any U.S. Regulated Subsidiary and (d) any European Market Subsidiary; provided that, (1) in the case of (c), such books and records are related to the operation or administration of such U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight and (2) in the case of (d), such books and records are related to the operation or administration of such European Market Subsidiary or any European Regulated Market over which such European Market Subsidiary has regulatory authority or oversight. NYSE Euronext's books and records related to U.S. Regulated Subsidiaries shall be maintained within the United States, and NYSE Euronext's books and records related to European Market Subsidiaries shall be maintained in the home jurisdiction of one or more of the European Market Subsidiaries. The proposed Amended and Restated NYSE Euronext Bylaws provide that, to the extent that any of NYSE Euronext's books and records relate to both U.S. Regulated Subsidiaries and European Market Subsidiaries (each such book and record, an "Overlapping Record"), NYSE Euronext shall be entitled to maintain such books and records in either the United States or the home jurisdiction of one or more of the European Market Subsidiaries. To facilitate compliance with the requirements of Rule 17a-1(b) under the Exchange Act, NYSE Euronext

²⁸ See proposed Amended and Restated NYSE Euronext Bylaws, Article VIII.

shall maintain in the United States originals or copies of Overlapping Records covered by Rule 17a-1(b) promptly after creation of such Overlapping Records.

The proposed Amended and Restated NYSE Euronext Bylaws provide that, for so long as NYSE Euronext directly or indirectly controls any U.S. Regulated Subsidiary, the books, records, premises, officers, directors and employees of NYSE Euronext shall be deemed to be the books, records, premises, officers, directors and employees of the U.S. Regulated Subsidiaries for purposes of and subject to oversight pursuant to the Exchange Act, and for so long as NYSE Euronext directly or indirectly controls any European Market Subsidiary, the books, records, premises, officers, directors and employees of NYSE Euronext shall be deemed to be the books, records, premises, officers, directors and employees of such European Market Subsidiaries for purposes of and subject to oversight pursuant to the European Exchange Regulations.²⁹

The proposed Amended and Restated NYSE Euronext Bylaws provide that NYSE Euronext shall comply with the U.S. federal securities laws and the rules and regulations thereunder, the European Exchange Regulations and the rules and regulations thereunder and shall cooperate with the SEC, the European Regulators, and the U.S. Regulated Subsidiaries pursuant to and to the extent of their respective regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate, with the SEC and the European Regulators and, where applicable, the U.S. Regulated Subsidiaries pursuant to their regulatory authority.³⁰

The proposed Amended and Restated NYSE Euronext Bylaws also provide that NYSE Euronext, its directors and officers, and those of its employees whose principal place of business

²⁹ See proposed Amended and Restated NYSE Euronext Bylaws, Article VIII.

³⁰ See proposed Amended and Restated NYSE Euronext Bylaws, Article IX.

and residence is outside of the United States shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts and the SEC for the purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws, and the rules and regulations thereunder, commenced or initiated by the SEC arising out of, or relating to, the activities of the U.S. Regulated Subsidiaries (and shall be deemed to agree that NYSE Euronext may serve as U.S. agent for purposes of service of process in such suit, action or proceeding). Further, NYSE Euronext, as well as each such director, officer or employee by virtue of acceptance of such position, shall be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that it or they are not personally subject to the jurisdiction of the SEC, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.³¹

The proposed Amended and Restated NYSE Euronext Bylaws also provide that NYSE Euronext, its directors, officers and employees shall be deemed to irrevocably submit to the jurisdiction of the European Regulators and to courts in the capital city of the country of each such regulator for the purposes of any suit, action or proceeding pursuant to the European Exchange Regulations and the rules and regulations thereunder, commenced or initiated by the European Regulators arising out of, or relating to, the activities of the European Market Subsidiaries. Further, NYSE Euronext, as well as each such director, officer or employee by virtue of acceptance of such position, shall be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that it or

³¹ See proposed Amended and Restated NYSE Euronext Bylaws, Article VII, Section 7.1.

they are not personally subject to the jurisdiction of the European Regulators, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or regulators.³²

The proposed Amended and Restated NYSE Euronext Certificate of Incorporation and proposed Amended and Restated NYSE Euronext Bylaws provide that:

- for so long as NYSE Euronext shall control, directly or indirectly, any of the U.S. Regulated Subsidiaries, before any amendment to or repeal of any provision of the Amended and Restated NYSE Euronext Certificate of Incorporation or Amended and Restated NYSE Euronext Bylaws shall be effective, such amendment or repeal shall be submitted to the boards of directors of the Exchange, NYSE Market, NYSE Regulation, NYSE Arca and NYSE Arca Equities, and if any or all of such boards of directors determines that the amendment or repeal must be filed with or filed with and approved by the SEC under Section 19 of the Exchange Act before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with or filed with and approved by the SEC;³³ and
- for so long as NYSE Euronext shall control, directly or indirectly, any European Market Subsidiary, before any amendment to or repeal of any provision of the Amended and Restated NYSE Euronext Certificate of Incorporation or Amended and Restated NYSE Euronext Bylaws shall be effective, such amendment or repeal shall

³² See proposed Amended and Restated NYSE Euronext Bylaws, Article VII, Section 7.2.

³³ See proposed Amended and Restated NYSE Euronext Certificate of Incorporation, Article X; proposed Amended and Restated NYSE Euronext Bylaws, Section 10.10(C).

be submitted to the boards of directors of the European Market Subsidiaries and, if any or all of such boards of directors shall determine that such amendment or repeal must be filed with, or filed with and approved by, a European Regulator under European Exchange Regulations before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until filed with, or filed with and approved by, the relevant European Regulator(s).

In addition, the proposed Amended and Restated Bylaws of NYSE Euronext provides that NYSE Euronext, its directors, officers and employees shall give due regard to the preservation of the independence of the self-regulatory function of the U.S. Regulated Subsidiaries (to the extent of each U.S. Regulated Subsidiary's self-regulatory function) and to obligations to investors and the general public and shall not take any actions that would interfere with the effectuation of any decisions by the board of directors or managers of the U.S. Regulated Subsidiaries relating to their regulatory functions (including enforcement and disciplinary matters) or that would interfere with the ability of the U.S. Regulated Subsidiaries to carry out their respective responsibilities under the Exchange Act.³⁴

Furthermore, the proposed Amended and Restated Bylaws of NYSE Euronext provide that NYSE Euronext, its directors, officers and employees shall give due regard to the preservation of the independence of the self-regulatory function of the European Market Subsidiaries (to the extent of each European Market Subsidiaries' self-regulatory function) and to its obligations to investors and the general public, and shall not take any actions that would interfere with the effectuation of any decisions by the board of directors or managers of the

³⁴ See proposed Amended and Restated NYSE Euronext Bylaws, Article IX, Section 9.4.

European Market Subsidiaries relating to their regulatory responsibilities (including enforcement and disciplinary matters) or that would interfere with the ability of the European Market Subsidiaries to carry out their respective regulatory responsibilities under the European Exchange Regulations.³⁵

Under the proposed Amended and Restated NYSE Euronext Bylaws, NYSE Euronext shall take reasonable steps necessary to cause its officers, directors and employees, prior to accepting a position as an officer, director or employee, as applicable, of NYSE Euronext to consent in writing to the applicability to them of certain of these provisions with respect to their activities related to any U.S. Regulated Subsidiary.³⁶

The proposed Amended and Restated NYSE Euronext Bylaws require the affirmative vote of at least two-thirds of the directors then in office for (a) the consummation of any Extraordinary Transaction (as defined below), or (b) the execution by NYSE Euronext or any of its subsidiaries of a definitive agreement providing for an Extraordinary Transaction. An “Extraordinary Transaction” shall mean any of the following: (i) the direct or indirect acquisition, sale or disposition by NYSE Euronext or any of its subsidiaries of assets or equity securities where the consideration received in respect of such assets or equity securities has a fair market value, measured as of the date of the execution of the definitive agreement providing for such acquisition, sale or disposition (or, if no definitive agreement is executed for such acquisition, sale or disposition, the date of the consummation of such acquisition, sale or disposition), in excess of 30% of the aggregate equity market capitalization of NYSE Euronext as of such date; (ii) a merger or consolidation of the NYSE Euronext or any of its subsidiaries

³⁵ See proposed Amended and Restated NYSE Euronext Bylaws, Article IX, Section 9.5.

³⁶ See proposed Amended and Restated NYSE Euronext Bylaws, Article IX, Section 9.3.

with any entity with an aggregate equity market capitalization (or, if such entity's equity securities shall not be traded on a national securities exchange, with a fair market value of assets), measured as of the date of the execution of the definitive agreement providing for such merger or consolidation (or, if no definitive agreement is executed for such merger or consolidation, the date of the consummation of such merger or consolidation), in excess of 30% of the aggregate equity market capitalization of NYSE Euronext as of such date; or (iii) any direct or indirect acquisition by NYSE Euronext or any of its subsidiaries of assets or equity securities of an entity whose principal place of business is outside of the United States and Europe, or any merger or consolidation of NYSE Euronext or any of its subsidiaries with an entity whose principal place of business is outside of the United States and Europe, pursuant to which NYSE Euronext has agreed that one or more directors of the board of directors of NYSE Euronext shall be a person who is neither a U.S. Person nor a European Person as of the most recent election of directors.³⁷

The NYSE Group does not currently, nor after the Combination will it or NYSE Euronext, own or control any of the member organizations of the Exchange. To the extent that a member organization is the owner of NYSE Euronext common stock, the ownership limitations described above are intended to deal with the issues that might otherwise be presented. However, the Exchange understands that the SEC is also concerned about potential unfair competition and conflicts of interest between a U.S. exchange's self-regulatory obligations and its commercial interests that could exist if such exchange were to become affiliated with one of

³⁷ See proposed Amended and Restated NYSE Euronext Bylaws, Section 10.9. Section 10.9 also provides that none of the transactions contemplated by the Combination Agreement, including the Combination, shall constitute an Extraordinary Transaction.

its members, as well as the potential for unfair competitive advantage that the affiliated member could have by virtue of informational or operational advantages, or the ability to receive preferential treatment.³⁸ The Exchange acknowledges that ownership of, or a control relationship with, a member organization by NYSE Euronext or any of its subsidiaries would necessitate that the foregoing concerns be first addressed with, and to the satisfaction of, the SEC³⁹ and/or, as appropriate, the European Regulators.

Delaware Trust and Dutch Foundation

Generally

NYSE Euronext will operate several regulated entities located in the United States and in various jurisdictions in Europe. In connection with obtaining regulatory approval of the Combination, NYSE Euronext intends to implement certain special arrangements consisting of two standby structures, one involving a Dutch foundation (stichting) and one involving a Delaware trust. The Dutch foundation will be empowered to take actions to mitigate the effects of any material adverse change in U.S. law that has an “extraterritorial” impact on non-U.S. issuers listed on Euronext markets, non-U.S. financial services firms that are members of Euronext markets or holders of exchange licenses with respect to the Euronext markets. The Delaware trust will be empowered to take actions to mitigate the effects of any material adverse change in European law that has an “extraterritorial” impact on the non-European issuers listed

³⁸ See Securities Exchange Act Release Nos. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (File No. SR-PCX-2005-90) and 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (File No. SR-NYSE-2005-77).

³⁹ See proposed Exchange Rule 2(B). We note that the SEC has specifically approved the ownership and operation of the outbound router function of Archipelago Securities by Archipelago, subject to the conditions specified in Securities Exchange Act Release No. 52497. See *id.*

on NYSE Group securities exchanges, non-European financial services firms that are members of any NYSE Group securities market or holders of exchange licenses with respect to the NYSE Group securities exchanges.

Administration of the Dutch Foundation and of the Delaware Trust

The Dutch foundation will be administered by a board of three directors, and the Delaware trust will be administered by a board of three trustees. Each director will be required to be of high repute and to have experience and expertise in the securities industry, regulation and/or corporate governance and satisfy the independence requirements applicable to the board of directors of New York Stock Exchange LLC. Terms of appointment for the directors of each of the foundation and the trust will be three years for the first three terms with one-year terms thereafter, with no limit on the total number of terms a director may serve.

The initial directors of the Delaware trust and the Dutch foundation will be selected jointly by NYSE Group and Euronext prior to the Combination, with successor members to be selected by the nominating and governance committee of the NYSE Euronext board of directors. Persons nominated by the nominating and governance committee of the NYSE Euronext board of directors to serve on the board of the Dutch foundation must be approved by the Chairs Committee of the College of Euronext Regulators and must pass any “fit and proper” test under applicable European laws or regulations. Persons nominated by the nominating and governance committee of the NYSE Euronext board of directors to serve on the board of the Delaware trust must not be unacceptable to the Staff of the SEC and must not be subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act). Directors of the Dutch foundation and the Delaware trust may only be removed for cause by the nominating and governance committee of the NYSE Euronext board of directors; provided, however, that NYSE

Euronext shall provide prior written notice of such removal to the College of Euronext Regulators (in the case of a foundation director) and to the Director of the Division of Market Regulation of the SEC (in the case of a trustee).

Actions of the Dutch foundation and the Delaware trust will require majority approval of the members of the relevant board of directors, following reasonable consultation and good-faith cooperation with NYSE Euronext. In:

- determining whether a material adverse change of law (as described below) has occurred or is continuing (including for purposes of determining when a remedy must be unwound as described below);
- deciding upon the exercise of the remedies as described below; and
- in exercising its rights and powers during the pendency of a material adverse change of law;

the duty of the Dutch foundation and its board of directors and the Delaware trust and its trustees shall be to act in the public interests of the markets operated by Euronext and NYSE Group, respectively, and their respective subsidiaries if and only to the extent necessary to avoid or eliminate a material adverse change of law. In all other circumstances, the duty of the Dutch foundation and its board and the Delaware trust and its trustees shall be to act in the best interests of NYSE Euronext; in the event of any conflict between the duties of the Dutch foundation and its board of directors and/or the Delaware trust and its trustees to act in any of the circumstances referred to in three bulleted items of the preceding sentence, on the one hand, and the duties of the Dutch foundation and its board of directors and/or the Delaware trust and its trustees in any other circumstances referred to in the preceding sentence, on the other hand, the former shall prevail.

Material Adverse Change in Law

With respect to Euronext and the Dutch foundation, a material adverse change in law means: (1) the enactment of a new U.S. law (including the enactment of a new law that amends an existing law and including the enactment or adoption of regulations implementing any such new law or, if applicable, regulations amending or replacing regulations implementing any such existing or new law) or (2) a change of interpretation of any such existing or new laws or regulations by a competent U.S. regulatory authority or a U.S. court of competent jurisdiction pursuant to an order or judgment that is final, binding and not subject to appeal, in each case having a material adverse effect (including as may result from an increase in the regulatory burden that may occur as a result of such law) on:

- a substantial proportion of the non-U.S. issuers listed on a Euronext market or all of the non-U.S. issuers listed on a Euronext market belonging to a single industry sector, in each case solely because:
 - the securities of such non-U.S. issuers are listed on such Euronext market; and
 - such Euronext market is owned directly or indirectly by NYSE Euronext (it being understood that if non-U.S. issuers can avoid such material adverse effect by complying with Rule 12g3-2(b) under the Exchange Act, in its form as of the date of the completion of the Combination, or a provision not materially more burdensome, then such U.S. laws shall not be deemed to have a material adverse effect on non-U.S. issuers);
- a substantial proportion of the non-U.S. financial services firms of any Euronext market solely because:

- such non-U.S. financial services firms are members of such Euronext market (and such firm is not a member of, and does not do business on, a NYSE Group securities exchange or other U.S. market); and
- such Euronext market is owned directly or indirectly by NYSE Euronext; or
- to the extent that the object of such new law is to regulate the market operating rules, listing standards, or member financial services firm rules for such firms that are not members of, and do not do business on, a NYSE Group securities exchange or other U.S. market, any holder of an exchange license for a Euronext market in a manner that has a material adverse effect on such market solely because:
 - such holder operates a Euronext market; and
 - such Euronext market is owned directly or indirectly by NYSE Euronext.

With respect to the Delaware trust and any NYSE Group securities exchange, a material adverse change in law means: (1) the enactment of a new European law (including the enactment of a new law that amends an existing law and including the enactment or adoption of regulations implementing any such new law or, if applicable, regulations amending or replacing regulations implementing any such existing or new law) or (2) a change of interpretation of any such existing or new laws or regulations by a competent European regulatory authority or a European court of competent jurisdiction pursuant to an order or judgment that is final, binding and not subject to appeal, in each case having a material adverse effect (including as may result from an increase in the regulatory burden that may occur as a result of such law) on:

- a substantial proportion of the non-European issuers listed on a NYSE Group securities exchange or all of the non-European issuers listed on a NYSE Group securities exchange belonging to a single industry sector, in each case solely because:

- the securities of such non-European issuers are listed on such NYSE Group securities exchange; and
- such NYSE Group securities exchange is owned directly or indirectly by NYSE Euronext;
- a substantial proportion of the non-European financial services firms of any NYSE Group securities exchange solely because:
 - such non-European financial services firms are members of such NYSE Group securities exchange (and such firm is not a member of, and does not do business on, a Euronext market or other European securities market); and
 - such NYSE Group securities exchange is owned directly or indirectly by NYSE Euronext; or
- to the extent the object of such law is to regulate the market operating rules, listing standards, or member financial services firm rules for such firms that are not members of, and do not do business on, a Euronext market or other regulated market within Europe, such NYSE Group securities exchange in a manner that has a material adverse effect on such NYSE Group securities exchange solely because:
 - such entity is a NYSE Group securities exchange; and
 - such NYSE Group securities exchange is owned directly or indirectly by NYSE Euronext.

However, in either case, a material adverse change of law shall not be deemed to have occurred with respect to any U.S. or European law, as applicable, if such law is not (and for so long as it is not) effective, enforceable or applicable by reason of any permanent or temporary

injunction, order or other administrative relief, or that is not self-effectuating in the absence of implementing regulations that have not yet been adopted.

For purposes of determining whether a material adverse change of law has occurred:

- a “non-U.S. issuer” is any legal entity (1) incorporated or established in a jurisdiction outside of the United States that has securities listed on a Euronext market; (2) that does not have any securities listed on any U.S. securities exchange and is not otherwise required to be have any of its securities registered under the Exchange Act; and (3) that has not offered (within the meaning of the Securities Act) any securities to the public in the United States or filed a registration statement with the SEC under the Securities Act;
- a “non-U.S. financial services firm” is any legal entity (1) incorporated or established in a jurisdiction outside of the United States that is a member of a Euronext market and is not a member of any market, securities exchange or securities association in the United States; (2) that is not required to be registered under the Exchange Act; (3) that does not have any securities listed on any U.S. securities exchange and is not otherwise required to have any of its securities registered under the Exchange Act; (4) that has not offered (within the meaning of the Securities Act) any securities in the United States and has not filed a registration statement with the SEC under the Securities Act; (5) that does not engage in business in the United States; and (6) that is not a member of the National Association of Securities Dealers;
- a “non-European issuer” is any legal entity (1) incorporated or established in a jurisdiction outside of Europe that has securities listed on a NYSE Group securities exchange; (2) that does not have any securities listed on a regulated market in Europe

- and, to the extent that the concept of securities registration exists under any European exchange regulation, is not otherwise required to have any of its securities registered under such European exchange regulation; and (3) that has not offered any securities in Europe or, to the extent that the concept of securities registration exists under any European exchange regulation, filed a registration statement to register shares with European regulators under any European exchange regulation;
- a “non-European financial services firm” is any legal entity (1) incorporated or established in a jurisdiction outside of Europe that is a member of a NYSE Group securities exchange and is not a member of any regulated market in Europe; (2) that is not required to be registered under any European exchange regulation (to the extent that the concept of registration exists under any European exchange regulation); (3) does not have any securities listed on any regulated market in Europe and, to the extent that the concept of securities registration exists under any European exchange regulation, is not otherwise required to have any of its securities registered under such European exchange regulation; and (4) that has not offered (within the meaning of the European exchange regulations) any securities in any jurisdiction in Europe and, to the extent that the concept of securities registration exists under any European exchange regulation, has not filed a registration statement with any European regulator under European exchange regulation; and
 - “Europe” means (1) any and all of the jurisdictions in which Euronext or any of its subsidiaries operates a European regulated market; (2) any member state of the European Economic Area as of the effective time of the Combination and any state

that becomes a member of the European Economic Area after the effective time of the Combination; and (3) Switzerland (with “European” having a correlative meaning).

Remedies of the Dutch Foundation and Delaware Trust

If a material adverse change in law occurs with respect to a Euronext market or a NYSE Group securities exchange (the “affected subsidiary”) and shall continue after the cure periods specified below, the board of trustees of the Delaware trust (in the case where the affected subsidiary is a NYSE Group securities exchange) or the board of directors of the Dutch foundation (in the case where the affected subsidiary operates a Euronext market), as applicable, may exercise the following remedies following prior notice to, and, if required under then applicable laws, prior approval by, the European regulators having jurisdiction over Euronext or its regulated subsidiaries or the SEC, as applicable:

- after a cure period of six months, the delivery of confidential or public and non-binding or binding advice to NYSE Group (in the case where the affected subsidiary is a NYSE Group securities exchange) or Euronext (in the case where the affected subsidiary operates a Euronext market) and NYSE Euronext with respect to the affected subsidiary relating to decisions regarding (1) changes to the rules of the relevant securities exchange or market, (2) decisions to enter into (or not enter into) or alter the terms of listing agreements of the relevant securities exchange or market, (3) decisions to enter into (or not enter into) or alter the terms of contractual arrangements with any non-European or non-U.S., respectively, financial services firms in relation to the U.S. or European market, respectively, (4) changes in information and communications technologies for the relevant markets or securities exchanges, (5) changes in clearing and settlement for the relevant market or securities

- exchanges, as applicable and (6) in the case of the Dutch foundation, decisions to eliminate or impair the existence or continuation of a European market ((1) through (6), together the “Assumed Matters”);
- after a cure period of six months, the assumption of management responsibilities of NYSE Group (in the case where the affected subsidiary is a NYSE Group securities exchange) or Euronext (in the case where the affected subsidiary operates a Euronext market) or its affected subsidiary with respect to some or all of the Assumed Matters;
 - after a cure period of six months, the exercise of a call option over priority shares issued by NYSE Group (in the case where the affected subsidiary operates a NYSE Group securities exchange) or Euronext (in the case where the affected subsidiary operates a Euronext market) or its affected subsidiary, which priority shares will carry no or a limited economic right or interest and the right to vote on, make proposals with respect to and impose consent requirements to approve actions in relation to, the Assumed Matters; and
 - after a cure period of nine months, the exercise of a call option over the common stock or voting securities of NYSE Group (in the case where the affected subsidiary is a NYSE Group securities exchange) or the ordinary shares or voting securities of Euronext (in the case where the affected subsidiary operates a Euronext market) or its affected subsidiary, in each case, with such common stock, ordinary shares or voting securities being the minimum number necessary, in the reasonable opinion of the trustees of the Delaware trust or the board of directors of the Dutch foundation, as the case may be, to cause all affected subsidiaries to cease to be subject to a material adverse change of law.

Furthermore, subject to any required approval by the European regulators having jurisdiction over Euronext or its regulated subsidiaries or the SEC (as applicable), the Dutch foundation or the Delaware trust shall be entitled to give confidential non-binding advice to NYSE Euronext at any time before the end of the above-mentioned cure period and NYSE Euronext shall be entitled, in its sole discretion, to implement any remedy at any time before the end of such cure period.

Any of the above remedies may be imposed only if and to the extent that such remedy (1) causes all affected subsidiaries to cease to be subject to a material adverse change of U.S. law or European law, as the case may be; and (2) is the remedy available that causes the least intrusion on the conduct of the business and operations of NYSE Euronext and Euronext or NYSE Group, as the case may be, and their respective subsidiaries, including the affected subsidiaries, by their respective governing bodies. In determining whether a remedy satisfies the condition in clause (2) of the prior sentence:

- negative control by the Dutch foundation or Delaware trust, as the case may be, shall be preferred over affirmative control by the Dutch foundation or Delaware trust;
- authority of the Dutch foundation or Delaware trust, as the case may be, shall be asserted over the fewest and most narrow decisions of NYSE Euronext and its subsidiaries; and
- a remedy covering fewer entities and subsidiary entities shall be preferred over a remedy covering more entities and parent entities;
- the call option over the priority shares shall be viewed as a remedy of last resort among the remedies that are available after the six-month cure period; and

- the call option over the common stock, ordinary shares and voting securities shall be viewed as a remedy of last resort among all remedies.

In addition, prior to the exercise of a call option, the board of directors of the Dutch foundation or the board of trustees of the Delaware trust, as applicable, must first:

- determine that no other remedy can cause all of the affected subsidiaries to cease to be subject to a material adverse change of law;
- consult with the NYSE Euronext board of directors; and
- in the case of a material adverse change in law with respect to a Euronext market, consult with the Euronext supervisory and managing boards and the applicable European regulators with authority over the affected exchange to consider the solutions available to address the situation that has arisen and would trigger the right of the Dutch foundation to exercise the remedies described above, taking into account any possible adverse consequences for NYSE Euronext or Euronext in terms of taxation or accounting treatment; and
- in the case of a material adverse change in law with respect to a NYSE Group securities exchange, consult with the NYSE Group board of directors and the SEC to consider the solutions available to address the situation that has arisen and would trigger the right of the Delaware trust to exercise of the remedies described above, taking into account any possible adverse consequences for NYSE Euronext or NYSE Group in terms of taxation or accounting treatment;

in each case, acting in the best interest of NYSE Euronext.

In the event a call option is exercised, the Dutch foundation or the Delaware trust, as applicable, will issue to NYSE Euronext certificates representing the economic rights of any shares acquired pursuant to such option exercise.

Unwinding of Remedies

If and when any of the conditions of a material adverse change of law cease, any and all remedies shall be immediately unwound.

Additionally, NYSE Euronext shall have the right, at any time and regardless of whether a change of law continues to be a material adverse change of law, to request and cause the unwinding of any remedy for the purpose of and to the extent necessary to effect a divestiture or spin-off of all or part of its interest in NYSE Group or NYSE Euronext, as applicable, or any subsidiary of NYSE Euronext operating an exchange that is affected by a material adverse change of law, as the case may be.

Consequences of the Exercise of Remedies

The exercise of the remedies may trigger a total or partial loss by NYSE Euronext of operating control over some of its regulated markets or securities exchanges. For example, if the Dutch foundation were to deliver binding advice with respect to an affected subsidiary of Euronext, or were to assume management responsibilities with respect to the affected subsidiary, NYSE Euronext and its management may lose control of key decisions regarding the operation of such affected subsidiary. In addition, the Dutch foundation or the Delaware trust may require that NYSE Euronext transfer control over a substantial portion of its business and assets to the direction of the foundation or trust.

Automatic Suspension and Repeal of Certain Provisions in the NYSE Euronext

Organizational Documents

Immediately following the exercise of a call option over a substantial portion of Euronext's business (a "Euronext call option"), and for so long as the Dutch foundation shall continue to hold any priority shares or ordinary shares of Euronext, or the voting securities of one or subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business, then the following provisions of the proposed Amended and Restated NYSE Euronext Bylaws shall be suspended:

- the requirement that European Persons are represented in a certain proportion on the NYSE Euronext board of directors and the nominating and governance committee of the NYSE Euronext board of directors;
- the requirement of supermajority board or shareholder approval for certain extraordinary transactions;
- the provisions granting jurisdiction to European regulators over certain actions of NYSE Euronext and the NYSE Euronext board of directors; and
- references to European regulators, European market subsidiaries and European disqualified persons appearing in the NYSE Euronext bylaws.

In addition, if:

- after a period of six months following the exercise of a Euronext call option, the Dutch foundation shall continue to hold any ordinary shares of Euronext or of one or more subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business;

- after a period of six months following the exercise of a Euronext call option, the Dutch foundation shall continue to hold any priority shares of Euronext or priority shares or similar voting securities of one or more subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business (provided that, in this case, the NYSE Euronext board of directors has approved of such revocation); or
- at any time, NYSE Euronext no longer holds a direct or indirect controlling interest in Euronext or in one or more subsidiaries of Euronext that, taken together, represent a substantial portion of Euronext's business;

then, the following provisions shall be revoked:

- the provisions of the proposed Amended and Restated NYSE Euronext Bylaws noted above that were subject to suspension;
- the references in the proposed Amended and Restated NYSE Euronext Certificate of Incorporation and Bylaws to European regulators, European exchange regulations, European market subsidiaries, European regulated markets, Europe and European disqualified persons;
- the provisions in the proposed Amended and Restated NYSE Euronext Certificate of Incorporation and Bylaws requiring that amendments to such certificate of incorporation or bylaws be submitted to the European market subsidiaries and, if applicable, filed with and approved by a European regulator; and
- the provisions in the proposed Amended and Restated NYSE Euronext Bylaws requiring approval of either two-thirds or more of the NYSE Euronext directors or 80% of the votes entitled to be cast by the holders of the then-outstanding shares of

capital stock of NYSE Euronext entitled to vote generally in the election of directors to amend certain bylaw provisions.

In addition, any officer or director of NYSE Euronext who is a European Person shall resign or be removed from his or her office.

Transfer of Foundation and Trust Property

In no event shall the Dutch foundation or the Delaware trust sell, transfer, convey, assign, dispose, pledge (or agree to sell, transfer, convey, assign, dispose or pledge) any property of the foundation or trust, respectively, except pursuant to (1) the unwinding of the remedies (as described above) or (2) in circumstances permitted by the governance and option agreement (in the case of the Dutch foundation) or the trust agreement (in the case of the Delaware trust), pursuant to written instructions from NYSE Euronext approved by the board of directors of NYSE Euronext. In addition to the foregoing, any transfer, conveyance, assignment, disposition or pledge by the Trust or any Trustee of any equity interest in, or all or substantially all of the assets of, the Exchange, NYSE Market, Inc., NYSE Regulation, Inc., NYSE Arca, L.L.C., NYSE Arca or NYSE Arca Equities, Inc. (other than any such transfer or disposition to NYSE Euronext or its subsidiaries pursuant to the unwinding of remedies) shall not be effected until filed with the SEC under Section 19 of the Exchange Act.

Submission to Jurisdiction

The proposed trust agreement for the Delaware trust provides that the Delaware trust, the trustees and the officers and employees of the Delaware trust whose principal place of business and residence is outside of the United States shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts and the SEC for the purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws and the rules and regulations thereunder,

commenced or initiated by the SEC arising out of, or relating to, the activities of the U.S.

Regulated Subsidiaries (and shall be deemed to agree that the Delaware trust may serve as the U.S. agent for purposes of service of process in such suit, action or proceeding). Further, the Delaware trust and each such trustee, officer or employee of the Delaware trust, by virtue of his or her acceptance of any such position, shall be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that it or they are not personally subject to the jurisdiction of the SEC, that such suit, action or proceeding is an inconvenient forum or that the venue of such suit, action or proceeding is improper, or that the venue of such suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

The governance and option agreement for the Dutch foundation will provide that the Dutch foundation, its directors, officers and employees shall be deemed to irrevocably submit to the jurisdiction of the European Regulators and to courts in the capital city of the country of each such regulator for the purposes of any suit, action or proceeding pursuant to the European Exchange Regulations and the rules and regulations thereunder, commenced or initiated by the European Regulators arising out of, or relating to, the activities of the European Market Subsidiaries. Further, the Trust, as well as each such director, officer or employee by virtue of acceptance of such position, shall be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that it or they are not personally subject to the jurisdiction of the European Regulators, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or regulators.

Other Duties

In discharging his or her responsibilities as a trustee of the Delaware trust, , the trustees shall (a) comply with the U.S. federal securities laws and the rules and regulations thereunder, (b) cooperate with the SEC and (c) cooperate with the U.S. Regulated Subsidiaries pursuant to, and to the extent of, their regulatory authority.

In addition, the Delaware trust shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC and the U.S. Regulated Subsidiaries pursuant to and to the extent of their respective regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate, with the SEC and, where applicable, the U.S. Regulated Subsidiaries pursuant to their regulatory authority.

Initiatives by the Board of Trustees of the Delaware Trust and the Board of Directors of the Foundation

The board of the trustees of the Delaware trust shall be entitled to, and the SEC shall be entitled to request the board of trustees of the Delaware trust to, provide advice to and consult with NYSE Euronext, NYSE Group, the SEC and any other relevant persons or bodies regarding European Advocacy Actions (as defined below), and the Delaware trust and the board of trustees of the Delaware Trust shall be entitled to take European Advocacy Actions, to prevent a new European law or legislative proposal from becoming a material adverse change of European law, both before and after the enactment of the relevant new European law or proposal. “European Advocacy Actions” shall consist of one or more of the following: articles, opinion letters, advertising, press releases and lobbying efforts (including those directed at any European legislative or executive body, any European Regulator or other European governmental authority or those directed at the general public).

The board of directors of the Dutch foundation shall be entitled to, and the European Regulators shall be entitled to request the board of directors of the Dutch foundation to, provide advice to and consult with NYSE Euronext, Euronext, the European Regulators and any other relevant persons or bodies regarding U.S. Advocacy Actions (as defined below), and the Dutch foundation and the board of directors of the Dutch foundation shall be entitled to take U.S. Advocacy Actions, to prevent a new U.S. law or legislative proposal from becoming a material adverse change of U.S. law, both before and after the enactment of the relevant new U.S. law or proposal. “U.S. Advocacy Actions” shall consist of one or more of the following: articles, opinion letters, advertising, press releases and lobbying efforts (including those directed at any U.S. legislative or executive body, the SEC, or other U.S. governmental authority or those directed at the general public).

Duration of the Dutch Foundation and Term of the Delaware Trust

With respect to the Dutch foundation, the arrangements described above will be memorialized in a governance and option agreement between, among others, NYSE Euronext, Euronext and the foundation and the articles of incorporation of the foundation. The initial term of the governance and option agreement and the Delaware trust will be ten years from the date of the completion of the Combination, renewable for successive one-year terms at the request of board of the foundation or the Euronext College of Regulators, in the case of the Dutch foundation, or the board of trustees of the trust or the Chairman of the SEC, in the case of the Delaware trust; provided, however, that any extension that would cause the term of the governance and option agreement or the Delaware trust to continue past the 20th anniversary of the date of the completion of the Combination shall require the prior written consent of NYSE Euronext. Notwithstanding anything to the contrary, NYSE Euronext shall be obligated to

provide its consent to continue the term of the governance and option agreement and the Delaware trust, and the governance and option agreement and the trust agreement and the rights, powers and remedies set forth therein shall remain in full force unless and until terminated, amended or novated by the parties thereto with the prior written approval of the Euronext College of Regulators (in the case of the governance and option agreement) and the SEC (in the case of the Delaware trust). If NYSE Euronext does not provide its prior written consent to the extension of the term of the governance and option agreement or the Delaware trust, NYSE Euronext must provide written notice to the Euronext College of Regulators (in the case of the governance and option agreement) and the Chairman of the SEC (in the case of the Delaware trust) at least one year prior to the scheduled expiration of the agreement or trust, and following a request of the Euronext College of Regulators or the Chairman of the SEC, respectively, NYSE Euronext and Euronext or NYSE Group, as the case may be, will review and discuss the possibility of renewing the governance and option agreement or the Delaware trust, as applicable, or adopting alternatives based on the then existing facts and circumstances.

NYSE Group Waiver of Ownership and Voting Limitations

The Amended and Restated Certificate of Incorporation of NYSE Group was approved by the SEC on February 27, 2006 in connection with the business combination of the New York Stock Exchange, Inc. and Arca Holdings.⁴⁰ In order to ensure that the ownership of NYSE Group by the public will not unduly interfere with or restrict the ability of the SEC or the Exchange to effectively carry out their regulatory oversight responsibilities under the Exchange Act and generally to enable the Exchange to operate in a manner that complies with the U.S.

⁴⁰ See Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2005).

federal securities laws, including furthering the objectives of Section 6(b)(5) of the Exchange Act, the Amended and Restated Certificate of Incorporation of NYSE Group imposes certain ownership and voting limitations with respect to the stock of NYSE Group (the “NYSE Group ownership limitations” and the “NYSE Group voting limitations”).

NYSE Group Ownership Limitation. The Amended and Restated Certificate of Incorporation of NYSE Group provides that no person, alone or together with its related persons,⁴¹ may own beneficially shares of NYSE Group stock representing in the aggregate more than 20% of the then outstanding votes entitled to be cast on any matter. The NYSE Group ownership limitation will apply unless and until (1) such person delivers to the board of directors of NYSE Group a notice in writing regarding its intention to acquire shares of NYSE Group stock that would cause such person, either alone or with its related persons, to own beneficially shares of stock of NYSE Group in excess of the NYSE Group ownership limitation, at least 45 days (or such shorter period as the board of directors of NYSE Group expressly consents to) prior to the intended acquisition, and (2) such person receives prior approval by the board of directors of NYSE Group and the SEC to exceed the NYSE Group ownership limitation, either alone or together with its related persons. Specifically, (1) the board of directors of NYSE Group must adopt a resolution approving such person (either alone or together with its related persons) to exceed the NYSE Group ownership limitation, (2) the resolution must be filed with the SEC under Section 19(b) of the Exchange Act and (3) such proposed rule change must be approved by the SEC and become effective thereunder.

⁴¹ “Related persons” has the same meaning as set forth in footnote 19, supra.

Subject to its fiduciary obligations under the Delaware General Corporation Law, as amended (“DGCL”), before adopting any such resolution, the board of directors of NYSE Group must first determine that: (1) such acquisition of beneficial ownership by such person, either alone or with its related persons, would not impair any of the U.S. Regulated Subsidiaries’ ability to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and is otherwise in the best interests of NYSE Group, its stockholders and the U.S. Regulated Subsidiaries; (2) such acquisition of beneficial ownership by such person, either alone or with its related persons, will not impair the SEC’s ability to enforce the Exchange Act;⁴² (3) such person and its related persons are not subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act); (4) for so long as NYSE Group directly or indirectly controls NYSE Arca (formerly known as Pacific Exchange, Inc.) and NYSE Arca Equities (formerly known as PCX Equities, Inc.) or any facility of NYSE Arca, neither such person nor its related persons is an ETP Holder of NYSE Arca Equities or an OTP Holder or OTP Firm of NYSE Arca; and (5) for so long as NYSE Group directly or indirectly controls the Exchange or NYSE Market, neither such person nor its related persons is a member or member organization.

NYSE Group Voting Limitation. The NYSE Group Amended and Restated Certificate of Incorporation also provides that no person, either alone or with its related persons, shall be entitled to (1) vote or cause the voting of shares of NYSE Group stock to the extent such shares

⁴² In making such determinations, the board of directors of NYSE Group may impose any conditions and restrictions on such person and its related persons owning any shares of stock of NYSE Group entitled to vote on any matter as the board of directors of NYSE Group in its sole discretion deems necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act and the governance of NYSE Group.

represent in the aggregate more than 10% of the then outstanding votes entitled to be cast on any matter or (2) acquire the ability to vote more than 10% of the then outstanding votes entitled to be cast on any matter by virtue of agreements entered into with other persons not to vote their shares of NYSE Group's outstanding capital stock. The NYSE Group voting limitation, as described in clauses (1) and (2) above, shall apply unless and until (1) a person delivers to the board of directors of NYSE Group a notice in writing regarding such person's intention to vote shares of NYSE Group stock that would cause such person, either alone or together with its related persons, to violate the NYSE Group voting limitation, at least 45 days (or such shorter period as the board of directors of NYSE Group expressly consents to) prior to the intended vote and (2) such person, either alone or with its related persons, receives prior approval from the board of directors of NYSE Group and the SEC to exceed the NYSE Group voting limitation. Specifically, (1) the board of directors of NYSE Group must adopt a resolution approving such person and its related persons to exceed the NYSE Group voting limitation, (2) the resolution must be filed with the SEC under Section 19(b) of the Exchange Act and (3) such proposed rule change must be approved by the SEC and become effective thereunder.

Subject to its fiduciary obligations under DGCL, before adopting any such resolution, the board of directors of NYSE Group must first determine that: (1) the exercise of such voting rights or the entering into of such agreement, plan or arrangement, as applicable, by such person, either alone or with its related persons, would not impair the ability of either NYSE Group or any of the U.S. Regulated Subsidiaries to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and is otherwise in the best interests of NYSE Group, its stockholders and the U.S. Regulated Subsidiaries; (2) the exercise of such voting rights or the entering into of such agreement, plan or arrangement would not impair the

SEC's ability to enforce the Exchange Act; and (3) in case of a resolution to approve the exercise of voting rights in excess of 20% of the then outstanding votes entitled to be cast on such matter or the entering into of an agreement, plan or arrangement that would result in the ability to possess the right to vote or cause the voting of shares of stock of NYSE Group that would exceed 20% of the then outstanding votes entitled to be cast on such matter (a) such person and its related persons are not subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act), (b) for so long as NYSE Group directly or indirectly controls NYSE Arca and NYSE Arca Equities or any facility of NYSE Arca, neither such person nor its related persons is an ETP Holder of NYSE Arca Equities or an OTP Holder or OTP Firm of NYSE Arca and (c) for so long as NYSE Group directly or indirectly controls the Exchange or NYSE Market, neither such person nor its related persons is a member or member organization. In making such determinations, the board of directors of NYSE Group may impose any conditions and restrictions on such person and its related persons owning any shares of NYSE Group stock entitled to vote on any matter as the board of directors of NYSE Group in its sole discretion deems necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act and the governance of NYSE Group.

Resolutions of the NYSE Group Board of Directors. In order to allow NYSE Euronext to wholly own and vote all of NYSE Group stock upon consummation of the Combination, on August 3, 2006, NYSE Euronext delivered a written notice to the board of directors of NYSE Group pursuant to the procedures set forth in the Amended and Restated Certificate of Incorporation of NYSE Group requesting approval of its ownership and voting of NYSE Group stock in excess of the NYSE Group ownership limitation and NYSE Group voting limitation.

Among other things, in the notice, NYSE Euronext represented to the board of directors of NYSE Group that neither it, nor any of its related persons, are (1) ETP Holders of NYSE Arca Equities, OTP Holders or OTP Firms of NYSE Arca, (2) members or member organizations of the Exchange, or (3) subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act).

At a meeting duly convened on August 3, 2006, the board of directors of NYSE Group adopted a resolution approving NYSE Euronext's request that it be permitted, either alone or with its related persons, to exceed the NYSE Group ownership limitation and the NYSE Group voting limitation. In adopting such resolution, the board of directors of NYSE Group determined that: (1) the acquisition of beneficial ownership of 100% of the outstanding shares of NYSE Group common stock and the exercise of voting rights with respect to 100% of the outstanding shares of NYSE Group common stock by NYSE Euronext, either alone or with its related persons, would not impair the ability of NYSE Group or any of the U.S. Regulated Subsidiaries to discharge their respective responsibilities under the Exchange Act and the rules and regulations thereunder and is otherwise in the best interests of NYSE Group, its stockholders and the U.S. Regulated Subsidiaries; (2) such acquisition of beneficial ownership and exercise of voting rights of NYSE Group common stock by NYSE Euronext, either alone or with its related persons, would not impair the SEC's ability to enforce the Exchange Act; (3) neither NYSE Euronext nor any of its related persons is subject to any statutory disqualification (as defined in Section 3(a)(39) of the Exchange Act); and (4) neither NYSE Euronext nor any of its related persons is an ETP Holder of NYSE Arca Equities, OTP Holder or OTP Firm of NYSE Arca or member or member organization of the Exchange.

The NYSE Group board of directors also approved the submission of this proposed rule change to the SEC. An extract with the relevant resolutions is attached as Exhibit 5K to the Proposed Rule Change and can be found on the Exchange's Web site and the SEC's Web site.

Request for Approval. The Exchange hereby requests that the SEC allow NYSE Euronext to wholly own and vote all of the outstanding common stock of NYSE Group, either alone or with its related persons, except for any related person of NYSE Euronext which is an ETP Holder of NYSE Arca Equities, OTP Holder or OTP Firm of NYSE Arca, or member or member organization of the Exchange, upon the consummation of the Combination.

Regulation

A core aspect of the structure of the Combination is local regulation of the marketplace and, therefore, that securities exchanges of NYSE Group and Euronext will continue to be regulated in the same manner as they are currently regulated. Accordingly, the Combination is premised on the notion that:

- NYSE Group and its subsidiaries will continue to be regulated by the SEC (but will not be regulated by the European Regulators unless NYSE Group and its subsidiaries engage in activities in Europe within the jurisdiction of the European Regulators), and Euronext and its subsidiaries will continue to be regulated by the European Regulators (but will not be regulated by the SEC unless Euronext and its subsidiaries engage in activities in the United States within the jurisdiction of the SEC);
- companies listing their securities only on markets operated by Euronext and its subsidiaries will not become newly subject to U.S. laws or regulation by the SEC as a result of the Combination, and companies listing their securities only on the

- Exchange or NYSE Arca, will not become newly subject to European rules or regulation as a result of the Combination;
- the Combination will not cause companies that currently trade only on a Euronext exchange and are not subject to the Sarbanes-Oxley Act to become subject to the Sarbanes-Oxley Act unless those companies decide to list their securities on the Exchange, NYSE Arca or another U.S. securities exchange or register the sale of their securities under the Securities Act; and
 - members and member organizations of the Exchange, ETP Holders and Authorized Traders of NYSE Arca Equities, and OTP Firms and OTP Holders of NYSE Arca trading only on markets operated by the Exchange or NYSE Arca will not become newly subject to European rules or regulations as a result of the Combination, and members of the markets operated by Euronext and its subsidiaries will not become newly subject to U.S. laws or regulation by the SEC as a result of the Combination.

Listing of NYSE Euronext Common Stock on the Exchange

Initial Listing

NYSE Euronext intends to list its shares of common stock for trading on the Exchange, as well as on Euronext Paris. Pursuant to Rule 497, any security of NYSE Euronext and its affiliates shall not be approved for listing on the Exchange unless NYSE Regulation finds that such securities satisfy the Exchange's rules for listing, and such finding is approved by the NYSE Regulation board of directors.

Continued Listing and Trading on the Exchange

NYSE Regulation will be responsible for all Exchange listing-compliance decisions with respect to NYSE Euronext as an issuer. NYSE Regulation will prepare a quarterly report, as

described in Rule 497(c)(1), summarizing its monitoring of NYSE Euronext common stock's compliance with such listing standards. This report will be provided to the NYSE Regulation board of directors and a copy will be forwarded promptly to the SEC. Once a year, an independent accounting firm will review NYSE Euronext's compliance with the Exchange's listing standards and a copy of its report will be forwarded promptly to the SEC. If NYSE Regulation determines that NYSE Euronext common stock is not in compliance with any applicable listing standard of the Exchange, NYSE Regulation shall notify NYSE Euronext promptly and request a plan for compliance. Within five business days of providing such notice to NYSE Euronext, NYSE Regulation shall file a report with the SEC identifying the date on which NYSE Euronext common stock was not in compliance with the listing standard at issue and any other material information conveyed to NYSE Euronext in the notice of non-compliance. Within five business days of receiving a plan of compliance from the issuer, NYSE Regulation will notify the SEC of such receipt, whether the plan was accepted by NYSE Regulation or what other action was taken with respect to the plan, and the time period provided to regain compliance with the Exchange's listing standard, if any.

Organizational Documents of NYSE Group, the Exchange, NYSE Market and NYSE Regulation

Pursuant to the Combination, NYSE Group will merge with a wholly owned subsidiary of NYSE Euronext and the surviving corporation will be a wholly owned subsidiary of NYSE Euronext. Following the merger, the organizational documents of the surviving corporation (which shall be named "NYSE Group, Inc." although the current NYSE Group may not be the surviving corporation) will be those currently in effect for NYSE Group, except that certain provisions will be amended to reflect that, after the Combination, NYSE Group will be an intermediate holding company. Specifically:

- the voting and ownership limitations of NYSE Group will not be applicable so long as NYSE Euronext and the Delaware trust collectively own all of the capital stock of NYSE Group. Instead, while NYSE Group is a wholly owned subsidiary of NYSE Euronext, there shall be no transfer of the shares of NYSE Group held by NYSE Euronext without the approval of the SEC. If NYSE Group ceases to be wholly owned by NYSE Euronext or the Delaware trust, the current voting and ownership limitations will apply;
- the transfer restrictions of NYSE Group will be eliminated because they now appear in the NYSE Euronext charter;
- the number of authorized shares of NYSE Group will be decreased;
- the director independence requirements will be eliminated;⁴³
- a majority of the board must be U.S. Persons;
- board vacancies may be filled by the remaining board members as well as the shareholders, and vacancies created by the departure of a U.S. Person must be filled with a U.S. Person;
- directors may be removed at any time by the shareholders;
- provisions requiring a supermajority vote of shareholders to amend or repeal certain sections of the charter of NYSE Group will be deleted;
- provisions prohibiting NYSE Group shareholders from calling shareholder meetings, taking shareholder action by written consent and postponing shareholder meetings will be deleted;

⁴³ The current NYSE Group Independence Policy will also be eliminated.

- provisions requiring advance notice from shareholders of shareholder director nominations or shareholder proposals will be eliminated; and
- provisions relating to the mechanics of shareholders' meetings, such as the appointment of an inspector of elections, inspection of shareholder lists and opening and closing of polls will be deleted.

The Proposed Rule Change includes modified versions of certain organizational documents of the Exchange, NYSE Market and NYSE Regulation so that certain references to NYSE Group become references to NYSE Euronext. Specifically, under the current organizational documents of the Exchange, NYSE Market and NYSE Regulation:

- a majority of the directors of each of the Exchange and NYSE Market must be directors of NYSE Group that satisfy the independence requirements of the board of directors of NYSE Group;
- all of the directors of NYSE Regulation (other than the chief executive officer of NYSE Regulation) must satisfy the independence requirements of the board of directors of NYSE Group; and
- the Nominating and Governance Committee of NYSE Group is responsible for nominating the candidates to the boards of directors of the Exchange and NYSE Market, and for determining the eligibility of such candidates to serve on such boards (including whether such person qualifies as independent under the independence policy of the NYSE Group board of directors, and whether such person is free of any statutory disqualification (as defined in section 3(a)(39) of the Exchange Act)).

The Proposed Rule Change includes modified versions of the organizational documents of the Exchange, NYSE Market and NYSE Regulation so that the references to NYSE Group in the prior sentence will be replaced with NYSE Euronext. Accordingly, after the Combination:

- a majority of the directors of each of the Exchange and NYSE Market must be directors of NYSE Euronext that satisfy the independence requirements of the board of directors of NYSE Euronext;
- the Exchange's non-affiliated directors must qualify as independent under the NYSE Euronext Independence Policy;
- all of the directors of NYSE Regulation (other than the chief executive officer of NYSE Regulation) must satisfy the independence requirements of the board of directors of NYSE Euronext; and
- the Nominating and Governance Committee of NYSE Euronext will be responsible for nominating the candidates to the boards of directors of the Exchange and NYSE Market, and for determining the eligibility of such candidates to serve on such boards (including whether such person qualifies as independent under the independence policy of the NYSE Euronext board of directors, and whether such person is not a U.S. Disqualified Person).

The Proposed Rule Change also includes modifications to the organizational documents of the Exchange, NYSE Market and NYSE Regulation so that the a transfer of the equity interests of the Exchange, NYSE Market and NYSE Regulation pursuant to the terms of the trust agreement for the Delaware trust is permitted under such organizational documents.

The modified versions of the organizational documents of the Exchange, NYSE Market and NYSE Regulation contain a number of additional technical changes. The modified versions

of the organizational documents of the Exchange, NYSE Market and NYSE Regulation also shorten the time period for member organizations to vote for “fair representation” candidates. Currently, if the number of “fair representation” candidates nominated for election to the boards of directors of each of the Exchange, NYSE Market and NYSE Regulation exceeds the number of available “fair representation” positions on such boards, member organizations of the Exchange have twenty business days to submit their votes for the “fair representation” candidates. Based on recent experience, the Exchange believes that twenty calendar days provides member organizations with ample time to vote for the “fair representation” candidates.

The organizational documents of the Exchange, NYSE Market and NYSE Regulation will be modified to require that a majority of the directors of the boards of each of the Exchange, NYSE Market and NYSE Regulation be U.S. Persons and any vacancies on such boards created by the departure of a U.S. Person must be filled with a U.S. Person. Additionally, the organizational documents of the Exchange, NYSE Market and NYSE Regulation will be amended to state that any person not elected or appointed in accordance with the board qualifications of the relevant organizational documents will not be qualified to serve, and therefore will not be elected to serve, as a director.

The Amended and Restated Operating Agreement of the Exchange, which currently provides that additional capital contributions may be made with the written consent of the limited liability company member, will be amended to state that the sole limited liability company member may make additional contributions in its sole discretion. The NYSE Market Bylaws, which currently provide that the chief executive officer of NYSE Group must be the chief executive officer of NYSE Market, will be amended to require that the chief executive officer of NYSE Market be a U.S. Person. The NYSE Market Bylaws, which currently provide that

special stockholder meetings may be called by the Chairman of the Board, the President or the Secretary or by resolution of the board, will be amended to also allow the Chief Executive Officer of NYSE Market to call a special stockholder meeting.

Finally, the NYSE Regulation Amended and Restated Bylaws will be modified to provide that any action required or permitted to be taken at any meeting of the NYSE Regulation board of directors or any committee thereof may be taken without a meeting if a written consent thereto is signed by all members of the NYSE Regulation board of directors or such committee (as opposed to a majority of such members, as the current NYSE Regulation Amended and Restated Bylaws provide).⁴⁴

The Exchange notes that, immediately following the Combination, none of the directors of NYSE Group, the Exchange, NYSE Market or NYSE Regulation who currently serve will have been elected or appointed pursuant to the modified processes described above (i.e., they will not have been elected or appointed by the Nominating and Governance Committee of NYSE Euronext). However, the Exchange represents that, with the exception of NYSE Group, the current board members of the Exchange, NYSE Market or NYSE Regulation – including the “fair representation” directors – will continue to be qualified to serve on, and will remain on, the boards of each of the Exchange, NYSE Market and NYSE Regulation following the consummation of the Combination. Upon the consummation of the Combination, the current directors of NYSE Group will resign and a three-person board composed of certain members of NYSE Group management will be appointed to serve on the board of NYSE Group.

Rules of the Exchange

⁴⁴ This modification conforms to the provisions of the New York Not-for-Profit Corporation Law.

The Exchange proposes technical amendments to certain of the Exchange Rules to reflect the Combination, which, after the Combination, will remain the rules of the Exchange. The technical amendments consist of deleting all references to “NYSE Group, Inc.” or “NYSE Group” in the Exchange Rules and replacing those references with “NYSE Euronext,” which will be the parent company of the Exchange following the Combination. The Exchange also proposes to delete Exchange Rule 497T, which is now obsolete. In addition, the Exchange proposes to amend Exchange Rule 2B to clarify that, if a director of an affiliate of a member organization serves as a director of NYSE Euronext, this fact shall not cause such member organization to be an affiliate of the Exchange, or an affiliate of an affiliate of the Exchange. The proposed amended Exchange Rules are attached to the Proposed Rule Change as Exhibit 5L⁴⁵ and can be found on the Exchange’s Web site and on the SEC’s Web site.

2. Statutory Basis

The Exchange believes that this filing is consistent with Section 6(b) of the Exchange Act,⁴⁶ in general, and furthers the objectives of Section 6(b)(1)⁴⁷ 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 Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the

⁴⁵ The following Exchange Rules being amended in this filing are currently the subject of pending, proposed amendments previously filed with the SEC: (1) Rule 103B (see Exchange Act Release No. 53602 (April 5, 2006), 71 FR 18791 (April 12, 2006) (SR-NYSE-2005-40)) and (2) Rule 104 (see Exchange Act Release No. 51048 (January 18, 2005), 70 FR 4171 (January 28, 2005) (SR-NYSE-2004-70)). See also SR-NYSE-2006-99 (filed on November 9, 2006); and SR-NYSE-2006-100 (filed on November 9, 2006).

⁴⁶ 15 U.S.C. 78f(b).

⁴⁷ 15 U.S.C. 78f(b)(1).

rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this filing furthers the objectives of Section 6(b)(5)⁴⁸ of the Exchange Act because the rules summarized herein would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

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

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

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.

⁴⁸ 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 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-NYSE-2006-120 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-9010.

All submissions should refer to File Number SR-NYSE-2006-120. 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-NYSE-2006-120 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.⁴⁹

Florence E. Harmon
Deputy Secretary

⁴⁹ 17 CFR 200.30-3(a)(12).