

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70528; File No. SR-NYSEArca-2013-99)

September 26, 2013

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 5.3(i)(1)(i)(H) To Change The Required Advance Notice Period For Submitting Certain Notices to the Exchange

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 23, 2013, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend NYSE Arca Equities Rule 5.3(i)(1)(i)(H) to change the required advance notice period for submitting certain notices to the Exchange. The text of the proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places

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

<sup>2</sup> 17 CFR 240.19b-4.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 5.3(i)(1)(i)(H) to change the required advance notice period for submitting certain notices to the Exchange.

Under NYSE Arca Equities Rule 5.3(i)(1), each listed company is required to submit certain financial reports and related notices to the Exchange. Under paragraph (i)(H) of the rule, any notice with respect to the payment or non-payment of dividends should be provided to the Exchange at least 10 business days prior to the record date. The same notice requirement also applies to an issuance of rights to subscribe, a closing of stock transfer books, or the taking of a record of shareholders for any purposes. The Exchange proposes to amend this rule to change the required notice period from 10 business days to 10 calendar days in advance of the record date. This modification will align the Exchange’s notice period requirements with those of New York Stock Exchange LLC (“NYSE”) and NYSE MKT LLC (“NYSE MKT” and, together with the NYSE and the Exchange, the “NYSE Exchanges”), which are under common ownership with the Exchange.<sup>3</sup> The Exchange believes that harmonizing its record date notification policies with

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<sup>3</sup> See NYSE Listed Company Manual Sections 204.12 (requiring 10 days notice to the NYSE as to any dividend action or action relating to a stock distribution in respect of a listed security) and 204.21 (requiring 10 days’ notice to the NYSE of the fixing of a record date for any purpose) and NYSE MKT Company Guide Section 502. See also NYSE Listed Company Manual Section 703.03(C) for the NYSE’s notice requirements with respect to rights offerings. While none of the aforementioned rules specify in their text whether the required notice must be 10 calendar or 10 business days in advance of the record date, both the NYSE and NYSE MKT have always interpreted those provisions as requiring 10 calendar days rather than 10 business days advance notice. The NYSE is considering submitting a filing seeking to eliminate from Section 204.21 the

those of the other NYSE Exchanges will reduce the possibility of confusion among listed issuers and their counsel. The NYSE Exchanges disseminate record date information broadly, including to market data vendors, the Depository Trust & Clearing Corporation (“DTCC”) and broker-dealers, so investors are able to readily access record date information for securities they hold. Record date information is automatically disseminated to market participants almost immediately after Exchange staff input the information in the Exchange’s data management systems, so the proposed shortening of the record date notification requirement will not impede the ability of the Exchange to disseminate record date information on a timely basis. The Exchange recognizes that a 10 calendar day period could include two weekends, so the maximum required notice could be effectively six business days, which is significantly shorter than the current 10 business day requirement. In addition, if that period includes an Exchange holiday, the effective maximum required notice could be five business days (or four business days when that period includes two holidays).

However, the Exchange notes that the record date notification policies of the other NYSE Exchanges have been in place for many years and that it is clear from this lengthy experience that 10 calendar days notice of the setting of a record dates has been sufficient for the needs of investors and that this is also the case where the 10 calendar day period includes one or more holidays. Prior to the date on which the proposed rule change becomes operative, the Exchange will inform all of its equity permit holders by issuing a client notice announcing the rule change and the date on which it will become operative.

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notice requirements with respect to shareholder meeting record dates. However, Section 204.21 would continue to require 10 days’ notice of the setting of the record date for any other purpose, including all of those purposes specified in NYSE Arca Equities Rule 5.3(i)(1).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>4</sup> of the Securities Exchange Act of 1934 (the “Act”),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendment is consistent with Section 6(b)(5) of the Act in that it is consistent with the protection of the investors and the public interest and raises no novel regulatory issues, because it simply conforms the Exchange’s policy with respect to record date notifications with the rules of the other NYSE Exchanges, thereby reducing the possibility of confusion while continuing to provide investors with adequate notice of record dates. The NYSE Exchanges disseminate record date information broadly, including to market data vendors, DTCC and broker-dealers, so investors are able to readily access record date information for securities they hold. Record date information is automatically disseminated to market participants almost immediately after Exchange staff input the information in the Exchange’s data management systems, so the proposed shortening of the record date notification requirement will not impede the ability of the Exchange to disseminate record date information on a timely basis. The Exchange notes that the record date notification policies of the other exchanges have been in place for many years and that it is clear from this lengthy experience that 10 calendars

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<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78a.

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

days notice of the setting of a record dates has been sufficient for the needs of investors and that this is also the case where the 10 calendar day period includes one or more holidays.

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. The proposed rule change simply makes the Exchange's record date notification policies the same as those of the NYSE and NYSE MKT and therefore imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

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

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act<sup>9</sup> to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2013-99 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2013-99. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those

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<sup>9</sup> 15 U.S.C. 78s(b)(2)(B).

that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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 publicly available. All submissions should refer to File Number SR-NYSEArca-2013-99 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).