



February 8, 2006

**VIA EMAIL TRANSMISSION;**  
**CONFIRMATION BY OVERNIGHT MAIL**

Ms. Nancy M. Morris  
Secretary  
Securities & Exchange Commission  
Station Place  
100 F. Street, N.E.  
Washington, D.C. 20549-9303

**Re: Response of Pacific Exchange, Inc., to Comments on Proposed NYSE Merger**  
**Release No. 34-53077; File No. SR-PCX-2005-134**

Dear Madam Secretary:

The Pacific Exchange, Inc., (“PCX”) hereby submits its response to comment letters received by the Securities and Exchange Commission (“SEC” or “Commission”) in connection with PCX’s rule filing (“Rule Filing”) – File No. SR-PCX-2005-134.<sup>1</sup> PCX is a wholly owned subsidiary of Archipelago Holdings, Inc., (“Archipelago”) which operates the Archipelago Exchange (“ArcaEx”) and executes trades in NYSE-listed, PCX-listed, and OTC equity securities, ETFs, and options. PCX is a self-regulatory organization and is registered as a national securities exchange.

This submission is in response to two letters received by the Commission in connection with the Rule Filing,<sup>2</sup> and a third letter received by the Commission, which was submitted in connection with a rule filing made by the New York Stock Exchange, Inc. (“NYSE”)(File No. SR-NYSE-2005-77).<sup>3</sup> Hereinafter the three comment letters will be referred to as “the Letters.”

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<sup>1</sup> Exchange Act Release No. 34-53077 (January 6, 2006).

<sup>2</sup> Letter from James L. Kopecky of James L. Kopecky, P.C., dated January 16, 2006; and, letter from Philip J. Nathanson of Philip J. Nathanson & Associates, dated February 2, 2006.

<sup>3</sup> Exchange Act Release No. 34-53088 (January 6, 2006); Letter from Michael Kanovitz of Loevy & Loevy, dated February 2, 2006.



On April 20, 2005, the NYSE and Archipelago publicly announced their intention to merge. In connection with the announced merger, the Commission staff has diligently worked with Archipelago and the PCX to address certain corporate and regulatory governance issues that arise out of and are impacted by the proposed merger. The subject of the Rule Filing, in large part, focuses on these governance issues and the associated changes undertaken by Archipelago and PCX in connection therewith.

The Letters have nary to do with the subject of the Rule Filing. Instead, they attack the character and question the integrity of Mr. Gerald D. Putnam (“Mr. Putnam”). Mr. Putnam was a co-founder of Archipelago and currently serves as its chairman and chief executive officer. He also serves as the Chairman of the PCX. Upon consummation of Archipelago’s merger with the NYSE, Mr. Putnam has been named to serve as a co-president and chief operating officer of NYSE Group, Inc., a newly-formed holding company which will be publicly traded on the NYSE.

The attacks stem from two private disputes involving former business ventures in the 1990s. The disputes, which were filed in 1999 and 2000, respectively, are currently being litigated in Illinois state court. In one dispute, after a 6-week trial in 2004, the jury and the judge exonerated Mr. Putnam on all counts and judgment was entered for Mr. Putnam on July 25, 2005.<sup>4</sup> The plaintiffs are now engaging in post-judgment process in an attempt to undo the decision of the judge and the jury. The second dispute, which was settled in 1998 and where the plaintiff is now attempting to re-open the settlement, is currently in discovery phase.<sup>5</sup> Mr. Putnam denies any liability. Also, in both disputes, the plaintiffs initially named Archipelago (or its predecessor entity) as a defendant; and, in both disputes, Archipelago was expeditiously dismissed with prejudice. The Letters merely represent the most recent paroxysm outside of the courtroom by these plaintiffs in an attempt to harass and embarrass Mr. Putnam.

Mr. Putnam has been associated with the securities industry since graduating from the University of Pennsylvania in the early 1980s. Since joining the industry, he has held licenses and/or been regulated in several capacities at one time or another by the SEC, NYSE, NASD and PCX. In the mid-1990s, Mr. Putnam co-founded the Archipelago ECN, one of the first qualified ECNs. Along with other ECNs and marketplace entrepreneurs, the trading of equity securities in the United States was revolutionized; and the ripple effects of that revolution have impacted and continue to impact the options and futures trading businesses as well. The fruits of this revolution are very tangible: U.S. capital markets are more transparent, efficient, and globally competitive, and provide better trade executions for all investors.

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<sup>4</sup> See *Lozman, et al. v. Putnam, et al.*, Circuit Court of Cook County, IL, No. 01 L 16377 consolidated with 99 CH 11347.

<sup>5</sup> See *Borsellino, et al. v. Putnam, et al.*, Circuit Court of Cook County, IL, No. 00 CH 13958.

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In 2004, Mr. Putnam guided Archipelago through an initial public offering, which was the first IPO of an equities marketplace in the United States. As noted above, Mr. Putnam serves as the chairman and chief executive officer of the publicly traded Archipelago (PCX:AX), whose board of directors includes, among others, a former SEC chairman. Additionally, Mr. Putnam has sat on the board of directors of the PCX, a heavily regulated self-regulatory organization, since 2000, and with the merger of Archipelago and PCX in September 2005, now serves as its chairman. Since co-founding Archipelago, Mr. Putnam has regularly engaged and interacted with SEC staff and Commissioners on a myriad of subjects and issues.

On April 20, 2005, the NYSE and Archipelago publicly announced their intention to merge. As part of that plan, Mr. Putnam will serve as a co-president and chief operating officer of NYSE Group, Inc. The Letters, and the private disputes underlying them, have no bearing on Mr. Putnam's fitness to serve in those roles. Given his many years of service in the highly-regulated securities industry, Mr. Putnam has a very public record that underscores his integrity and ability to properly discharge his duties and responsibilities as an officer of NYSE Group, Inc.

On behalf of the Pacific Exchange, Inc., and its parent, Archipelago Holdings, Inc., we would like to thank you for the opportunity to respond to the Letters. If you have any questions, please contact me at your earliest convenience.

Very truly yours,

Kevin J. P. O'Hara  
Chief Administrative Officer,  
General Counsel & Secretary

cc: Chairman Christopher Cox  
Commissioner Paul S. Atkins  
Commissioner Roel C. Campos  
Commissioner Cynthia A. Glassman  
Commissioner Annette L. Nazareth

Mr. Robert L.D. Colby