

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 Amex 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.

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-Amex-2006-34 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 20549-1090.

All submissions should refer to File Number SR-Amex-2006-34. 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 Amex. 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-Amex-2006-34 and should be submitted on or before May 31, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53751]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Declaration of Effectiveness of the Fingerprint Plan of the National Association of Securities Dealers, Inc.

May 2, 2006.

On May 1, 2006, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission" or "SEC") an amended fingerprinting plan ("Amended Plan") pursuant to Rule 17f-2(c)¹ under the Securities Exchange Act of 1934 ("Act").² The Amended Plan³ supersedes and replaces the NASD's current fingerprinting plan.⁴

The NASD believes that the Amended Plan will be an improvement over the current NASD fingerprinting plan. It permits the NASD to record in the Central Registration Depository ("CRD") the status of fingerprints submitted to the Attorney General. Through the CRD system, NASD makes available to a member or other securities industry participant that has submitted fingerprints the status and results of such fingerprints after submission to the Attorney General. In addition, the NASD has made other minor clarifying and typographical revisions.

Under the NASD's current fingerprinting plan, members or other securities industry participants submit fingerprints and identifying information, on paper or electronically, to the NASD, which then forwards the cards to the Federal Bureau of

Investigation ("FBI") (the fingerprint processing arm of the Office of the Attorney General of the United States). The FBI identifies submitted fingerprints, retrieves relevant criminal history information, and returns fingerprint reports (including the original paper fingerprint cards, if any) to the NASD. Under the terms of the Amended Plan, the member or other securities industry participant will be able to view the status and results of fingerprints, including any relevant criminal history information, through the CRD system.

The Commission has reviewed the procedures detailed in the Amended Plan and believes that the Amended Plan is consistent with the public interest and the protection of investors. Enabling members or other securities industry participants to view the status and results of fingerprints, including relevant criminal history information, through the CRD system should improve the efficiency of members or other securities industry participants in identifying persons who may be subject to statutory disqualification more rapidly. Thus, the Commission declares the Amended Plan to be effective.

The Commission notes that securities industry fingerprinting procedures are in a state of flux due to rapidly advancing technology. In the event that an industry-wide standard is adopted or becomes prevalent and in the event that this Amended Plan substantially differs therefrom, the Commission would expect the NASD to revise its fingerprinting plan to incorporate the industry-wide standard.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Nancy M. Morris,

Secretary.

Exhibit A—National Association of Securities Dealers, Incorporated; Fingerprint Plan

National Association of Securities Dealers, Inc. ("NASD") submits this Fingerprint Plan ("Plan") pursuant to Rule 17f-2(c) under the Securities Exchange Act of 1934 ("Exchange Act"). This Plan supersedes and replaces the NASD's Fingerprint Plan approved by the Securities and Exchange Commission ("Commission") on June 22, 1976, and as amended thereafter.

The purpose of this Plan is to facilitate securities industry participants' compliance with Section 17(f)(2) of the Exchange Act and Rule 17f-2 thereunder, by providing a facility for securities industry participants to

⁵ 17 CFR 200.30-3(a)(12).

¹ 17 CFR 240.17f-2(c).

² 15 U.S.C. 78a et seq.

³ Attached hereto as Exhibit A.

⁴ The Commission declared the current fingerprint plan of the NASD effective in 1988.

⁵ 17 CFR 200.30-3(a)(17)(iii).

have the fingerprints of their partners, directors, officers, and employees processed by the Attorney General of the United States or his designee (hereinafter "Attorney General") as required by Section 17(f)(2) and Rule 17f-2, thereunder. NASD, pursuant to a Plan filed with and declared effective by the Commission, processes fingerprint records of securities industry participants as described herein consistent with those provisions.

NASD accepts fingerprints and identifying information from member firms and other securities industry participants required to be fingerprinted pursuant to Rule 17f-2. Securities industry participants may submit fingerprints and identifying information on paper or electronically, provided such submissions are consistent with protocols and requirements established by the Attorney General.

NASD accepts a single set of fingerprints and identifying information for an associated person in lieu of separate fingerprint submissions by affiliated NASD member firms with which the individual is associated in satisfaction of the Section 17(f)(2) fingerprinting requirement, provided that the NASD affiliate member firms are under common ownership or control as reported on Form BD, and that affiliate information is provided with the initial application for registration.

NASD transmits fingerprints and identifying information, on paper or electronically, to the Attorney General for identification and processing, consistent with protocols and requirements established by the Attorney General.

NASD receives processed results from the Attorney General (on paper or electronically) and transmits those results via paper or electronic means to authorized recipients (*i.e.*, to a member or other securities industry participant that submitted the fingerprints and to regulators for licensing, registration and other regulatory purposes), consistent with protocols and requirements established by the Attorney General. In cases where the Attorney General's search on the fingerprints submitted fails to disclose prior arrest data, NASD transmits that result to the securities industry participant that submitted the fingerprints. In cases where the Attorney General's search yields Criminal History Record Information (CHRI), NASD transmits that information to the securities industry participant that submitted the fingerprints. With respect to members, NASD also reviews any CHRI returned by the Attorney General to identify persons who may be subject to statutory

disqualification under the Exchange Act and to take action, as appropriate, with respect to such persons.

NASD advises its members and member applicants of the availability of fingerprint services and any fees charged by NASD in connection with those services and the processing of fingerprints pursuant to this Plan. NASD will file any such NASD member fees with the Commission pursuant to Section 19(b) of the Exchange Act.

NASD maintains copies of fingerprint processing results received from the Attorney General with respect to fingerprints submitted by NASD pursuant to this Plan, in accordance with NASD's Record Retention Plan filed with the Commission. Any maintenance of fingerprint records by NASD shall be for NASD's own administrative purposes, and NASD is not undertaking to maintain fingerprint records on behalf of NASD members pursuant to Rule 17f-2(d)(2). NASD records in the Central Registration Depository (CRD®) the status of fingerprints submitted to the Attorney General. Through the CRD system, NASD makes available to a member that has submitted fingerprints the status and results of such fingerprints after submission to the Attorney General.

NASD shall not be liable for losses or damages of any kind in connection with its fingerprinting services, as a result of its failure to follow, or properly to follow, the procedures described above, or as a result of lost or delayed fingerprint cards, electronic fingerprint records, or fingerprint reports, or as a result of any action by NASD or NASD's failure to take action in connection with this Plan.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53752; File No. SR-PCX-2006-14]

Self-Regulatory Organizations; Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.); Order Approving Proposed Rule Change To Reduce the Fee Charged to a Lead Market Maker When It Transfers Options Issues to Another Lead Market Maker

May 2, 2006.

I. Introduction

On February 23, 2006, the Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.) ("Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change

pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to reduce the fee charged to a Lead Market Maker ("LMM") when it transfers options issues to another LMM. The proposed rule change was published for comment in the **Federal Register** on March 20, 2006.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

In its filing, the Exchange proposed to reduce the fee charged to an LMM, when the LMM transfers an allocated options issue to another LMM. The Exchange presently charges an LMM a \$1000 fee, per issue, in the event that the LMM transfers the issue to another LMM, in accordance with the Exchange's allocation procedures. The \$1000 per issue fee is subject to a cap when multiple issues are included as part of the same transfer. Under the new proposal, the fee will be \$100 per issue transferred. The new lower fee will not be subject to a rate cap when multiple issues are transferred.

The Exchange proposes to make this fee effective retroactive to September 26, 2005, which coincides with the date that Archipelago Holdings Inc. acquired the Exchange ("Merger"). The Exchange will review all transfers that have occurred or may occur from September 26, 2005 through the effective date of this proposal and will make any fee adjustments that are deemed warranted pursuant to the proposed rate schedule contained in this filing.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b) of the Act⁴ and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ which requires, among other things, that an exchange's rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 53476 (March 13, 2006), 71 FR 14046.

⁴ 15 U.S.C. 78f(b).

⁵ In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(4).