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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Nancy M. Morris,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53575; File No. SR-NYSE-2006-23]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Exchange Rules 475 and 476

March 30, 2006.

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 March 27, 2006, the New York Stock Exchange LLC ("NYSE" 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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 Exchange Rules 475 and 476 in order to reconcile amendments to the text of Exchange Rules 475 and 476 as previously approved by the Commission.<sup>5</sup> The proposed

amendments further seek to remove inadvertently inserted text from the approved changes in Exchange Rule 476(l)<sup>6</sup> and incorporate the corrected text of Rule 476(l) into Rule 476(k). In addition, the proposed amendments make technical changes and render the rules gender neutral.

The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com>), at the Exchange's Office of the Secretary, 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 Exchange 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 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.

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

###### 1. Purpose

On May 23, 2005, the New York Stock Exchange, Inc. ("NYSE Inc.") filed SR-NYSE-2005-37 ("Filing 2005-37") with the Commission to amend Article IX of its Constitution and Rules 475 and 476 to modify certain aspects of its disciplinary procedures and to provide a structure for a summary suspension hearing and a "call-up" procedure for review by members of the board of directors, certain members of the Board of Executives listed in Rule 476(f), any member of the Regulation, Enforcement and Listing Standards Committee and either the division of the Exchange that initiated the proceedings or the respondent. On January 13, 2006, the Commission approved Filing 2005-37 and its subsequent amendments, to be operative on April 1, 2006.<sup>7</sup>

On November 3, 2005, NYSE Inc. filed SR-NYSE-2005-77 ("Filing 2005-77") with the Commission concerning a proposed rule change relating to its business combination with Archipelago Holdings, Inc. ("Merger"). Contained in Filing 2005-77, among other proposed

amendments, were modifications to Rules 475 and 476. On February 27, 2006, the Commission approved Filing 2005-77 and its subsequent amendments to be operative upon the date of the closing of the Merger, which occurred on March 7, 2006.<sup>8</sup> Pursuant to the terms of the Merger, the Exchange became the successor entity to NYSE Inc.

Filing 2005-37 references certain committees and boards that are no longer part of the corporate structure of the Exchange as approved in Filing 2005-77. The Exchange seeks to amend Exchange Rules 475 and 476 to remove these references to conform the rules to the current corporate structure of the Exchange. The proposed rule change seeks to revise paragraph lettering to reconcile rule text; to use consistent references to current Exchange entities; and to correct minor typographical errors.

In addition, Filing 2005-37 modified sections of the NYSE Inc. Constitution as it related to its disciplinary process. However, Filing 2005-77, among other things, rescinded the NYSE Inc. Constitution and incorporated certain of its provisions into Rule 476. The provisions incorporated into Rule 476 by Filing 2005-77 are reconciled in this filing with the modifications made in Filing 2005-37. Additionally, certain corrections are made to the text of Rule 476(l) as approved in Filing 2005-77.

The Exchange further seeks to incorporate the amended text of Rule 476(l) into Rule 476(k) as the second paragraph of Rule 476(k).

Specifically, Filing 2005-77 incorporated the provisions from Article X, Section 6 of the NYSE Inc. Constitution into Rule 476 as section (l). Those provisions govern penalties imposed upon members, allied members and member organizations for failure to pay fines or other sums due the exchange. Rule 476(l) as approved in Filing 2005-77 reads as follows:

(l) Any member, member organization, allied member, approved person or registered or non-registered employee of a member organization who shall not pay a fine, or any other sums due to the Exchange, within forty-five days after the same shall become payable, shall be reported by the Exchange Treasurer to the Chairman of the Exchange Board and, after written notice mailed to such member, member organization, allied member, approved person or registered or non-registered employee of a member organization of such arrearages, may be suspended by

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See Securities Exchange Act Release Nos. 53124 (January 13, 2006), 71 FR 3595 (January 23, 2006) (SR-NYSE-2005-37) (which will become operative on April 1, 2006), and 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR-NYSE-2005-77).

<sup>6</sup> See Securities Exchange Act Release No. 53382, *supra* note 5.

<sup>7</sup> See Securities Exchange Act Release No. 53124, *supra* note 5.

<sup>8</sup> See Securities Exchange Act Release No. 53382, *supra* note 5.

the Exchange Board until payment is made.

In Filing 2005-77, NYSE Inc. proposed to amend Rule 476(l) above and inadvertently included references to approved persons, registered and non-registered employees. However, penalties for approved persons, registered and non-registered employees that fail to pay fines were already covered in the first paragraph of Rule 476(k) and continued to be covered in that rule. Thus, the Exchange seeks to remove the phrase "approved person or registered and non-registered employee" from Rule 476(l) as approved in Filing 2005-77 and then incorporate the amended text of Rule 476(l) into Rule 476(k) as the second paragraph of Rule 476(k).

In this filing, the Exchange further seeks to remove references to "he" and "his" in order to render the rules gender neutral.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under section 6(b)(5) of the Act<sup>9</sup> that an exchange have rules that are designed 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*

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms, become operative for 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)<sup>10</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>12</sup> normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>13</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change to become operative on April 1, 2006. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>14</sup> The Commission notes that such waiver would allow the Exchange to reconcile rule changes previously approved by the Commission that are due to become operative on April 1, 2006. Accordingly, the Commission designates that the proposed rule change become operative on April 1, 2006.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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 No. SR-NYSE-2006-23 on the subject line.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19-4(f)(6). Rule 19b-4(f)(6) also requires that the Exchange give the Commission written notice of the Exchange's intention 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 the filing of the proposed rule change. The Commission notes that the Exchange has satisfied the pre-filing five-day notice requirement.

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> 14 For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

## *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-NYSE-2006-23. 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-2006-23 and should be submitted on or before April 27, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Nancy M. Morris,**  
Secretary.

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<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> 17 CFR 200.30-3(a)(12).