

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.⁸

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-MSRB-2005-14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-MSRB-2005-14. 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 MSRB. 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-MSRB-2005-14 and should

be submitted on or before October 20, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52489; File No. SR-NASD-2005-108]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Rename The Nasdaq SmallCap Market

September 21, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 8, 2005, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(3) thereunder,⁴ as one concerned solely with the administration of Nasdaq, which renders the proposal 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 the Substance of the Proposed Rule Change

Nasdaq proposes to rename the Nasdaq SmallCap Market as the Nasdaq Capital Market. Nasdaq will implement the proposed rule change at the time of issuance of a press release announcing the change, to be issued not later than three weeks after the date of this filing.

The text of the proposed rule change is available on Nasdaq's Web site (<http://www.nasdaq.com>), at NASD's principal office, and at the Commission's Public Reference Room.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(3).

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq proposes to rename the Nasdaq SmallCap Market as the Nasdaq Capital Market to better reflect the wide range of issuers eligible to list on that tier.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁵ in general and with Section 15A(b)(6) of the Act,⁶ in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, 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. Nasdaq believes that changing the name to the Nasdaq Capital Market from the Nasdaq SmallCap Market will help market participants by clarifying that issuers of a wide range of capitalization sizes may list on that market.⁷

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not

⁵ 15 U.S.C. 78o-3.

⁶ 15 U.S.C. 78o-3(b)(6).

⁷ The Commission has made a minor technical change to this notice with Nasdaq's consent. See memorandum re telephone conversation between Katherine A. England, Assistant Director, Joseph P. Morra, Special Counsel, Jan Woo, Attorney, Division of Market Regulation, Commission, and Arnold Golub, Associate Vice President, Nasdaq, dated September 16, 2005.

⁸ See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii)⁸ of the Act and subparagraph (f)(3) of Rule 19b-4 thereunder⁹ because it is concerned solely with the administration of Nasdaq. At any time within 60 days of the filing of a 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. Please include File Number SR-NASD-2005-108 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASD-2005-108. 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 NASD. 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-NASD-2005-108 and should be submitted on or before October 20, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52497; File No. SR-PCX-2005-90]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change To Amend the Certificate of Incorporation of PCX Holdings, Inc., PCX Rules, and the Bylaws of Archipelago Holdings, Inc. in Relation to the Acquisition of PCX Holdings by Archipelago Holdings

September 22, 2005.

I. Introduction

On August 1, 2005, the Pacific Exchange, Inc. ("PCX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the certificate of incorporation of PCX Holdings, Inc. ("PCXH"), the PCX rules, and the bylaws of Archipelago Holdings, Inc.

("Archipelago") in relation to the acquisition of PCXH by Archipelago. On August 10, 2005, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 18, 2005.³ The Commission received one comment on the proposal.⁴ On September 16, 2005, the Exchange filed Amendment No. 2 ("Amendment No. 2") to the proposed rule change.⁵ This order approves the proposed rule change, grants accelerated approval to Amendment No. 2 to the proposed rule change, and solicits comments from interested persons on Amendment No. 2.

II. Description of the Proposal

On January 3, 2005, PCXH, Archipelago and New Apple Acquisitions Corporation ("Merger Sub"), a newly formed wholly owned subsidiary of Archipelago, entered into an Agreement and Plan of Merger,⁶

³ See Securities Exchange Act Release No. 52249 (August 12, 2005), 70 FR 48611 ("Notice").

⁴ See electronic mail sent to the Division of Enforcement and the Division of Market Regulation on September 13, 2005 from "A Concerned Stakeholder."

⁵ In Amendment No. 2, the Exchange: (1) Revised its Form 19b-4 to reflect actions by the stockholders of PCXH approving the Merger Agreement (as defined below) on September 13, 2005, thereby completing the last necessary corporate action; (2) made certain technical, non-substantive corrections to the text of the proposed rule change; (3) clarified the scope of the term "real-time market surveillance" in its discussion of the scope of the regulatory agreement between PCX and NASD pursuant to Rule 17d-2 under the Act; (4) clarified the relationship between Archipelago and Wave Securities, L.L.C. ("Wave"); Archipelago and Terra Nova Trading, L.L.C. ("Terra Nova"); Terra Nova and TAL Financial Services, LLC ("TAL"); and Archipelago and White Cap Trading LLC ("White Cap") in relation to its requests for exceptions from PCXH's ownership and voting limitations included in the Notice; (5) provided that the temporary exception it requested for Wave in the Notice would be subject to a condition that Archipelago continue to maintain and comply with its existing information barriers; (6) included a request for a temporary exception from the PCXH ownership and voting requirements for the "inbound routing" function of its wholly owned subsidiary Archipelago Trading Services, Inc. ("Arca Trading") and the related clearing function performed by Archipelago Securities, L.L.C. ("Archipelago Securities"), subject to certain conditions; (7) requested an exception on a 60-day pilot basis for Archipelago to continue to own and operate an alternative trading system ("ATS") for the trading of over-the-counter bulletin board securities not traded on any exchange; (8) requested an exception on a pilot basis until the earlier of (a) 60 days and (b) the closing of the pending merger between Archipelago and the New York Stock Exchange, Inc. ("NYSE") for Archipelago to be able to continue to own and operate, through Archipelago Securities, a service that provides direct connectivity to the NYSE through DOT access; and (9) requested accelerated approval of Amendment No. 2.

⁶ On July 22, 2005, PCXH, Archipelago and Merger Sub amended and restated the Original

Continued

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(3).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.