board of directors or the equivalent of such board, together with any response by senior management, within 60 calendar days after its submission to senior management. These reports are required to be submitted on Form SCI. The Commission staff estimates that the total annual ongoing burden for all respondents will be, on average, 44 hours (1 hour per respondent × 44 respondents). The Commission staff estimates that all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $18,128 ($412 per respondent × 44 respondents).

In addition, the Commission staff estimates that all respondents will incur, on average, annual costs of $2,200,000 ($50,000 × 44 respondents) for outside legal advice in preparation of certain notifications required by Rule 1003(b).

Rule 1006 requires each SCI entity, with a few exceptions, to file any notification, review, description, analysis, or report to the Commission required under Regulation SCI electronically on Form SCI through the EFFS. An SCI entity will submit to the Commission an EAUF to register each individual at the SCI entity who will access the EFFS system on behalf of the SCI entity. The Commission staff estimates that the total annual initial burden for 2 new respondents will be 0.6 hours (0.3 hours per respondent × 2 respondents), and the annual ongoing burden for all respondents will be, on average, 6.6 hours (0.15 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $248 ($124 per respondent × 2 respondents), as well as outside costs to obtain a digital ID of $100 ($50 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $2,728 ($62 per respondent × 44 respondents), as well as outside costs to obtain a digital ID of $2,200 ($50 per respondent × 44 respondents).

Rule 1002(a) requires each SCI entity, upon any responsible SCI personnel having a reasonable basis to conclude that an SCI event has occurred, to begin to take appropriate corrective action. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 228 hours (114 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 1,716 hours (39 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $85,056 ($42,528 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $677,468 ($15,397 per respondent × 44 respondents).

Rule 1003(a)(1) requires each SCI entity to establish reasonable written criteria for identifying a change to its SCI systems and the security of indirect SCI systems as material. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 228 hours (114 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 1,188 hours (27 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $85,056 ($42,528 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $507,584 ($11,536 per respondent × 44 respondents).

Regulation SCI also requires SCI entities to identify certain types of events and systems. The Commission staff estimates that the total annual initial recordkeeping burden for 2 new respondents will be 396 hours (198 hours per respondent × 2 respondents), and the annual ongoing recordkeeping burden for all respondents will be, on average, 1,716 hours (39 hours per respondent × 44 respondents). The Commission staff estimates that the 2 new respondents would incur an initial internal cost of compliance of $139,412 ($69,706 per respondent × 2 respondents). In addition, all respondents will incur, on average, an estimated ongoing annual internal cost of compliance of $677,468 ($15,397 per respondent × 44 respondents).

Rules 1005 and 1007 establish recordkeeping requirements for SCI entities other than SROs. The Commission staff estimates that for a new respondent that is not an SRO the average annual initial burden would be 170 hours (170 hours × 1 respondent), and the annual ongoing burden for all respondents will be, on average, 275 hours (25 hours × 11 respondents). The Commission staff estimates that a new respondent would incur an estimated internal initial internal cost of compliance of $11,370, as well as a one-time cost of $900 to modify existing recordkeeping systems. In addition, all respondents will incur, on average, an estimated ongoing internal cost of compliance of $18,975 ($1,725 × 11 respondents).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov*.

Dated: July 13, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15381 Filed 7–18–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83635; File No. SR–CHX–2018–004]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Amendment Nos. 2 and 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendments Nos. 1, 2, and 3 Thereto, in Connection With a Proposed Transaction Involving CHX Holdings, Inc. and the Intercontinental Exchange, Inc.

July 13, 2018.

I. Introduction

On May 8, 2018, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange

Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change in connection with a transaction (''Transaction'') whereby a wholly-owned subsidiary of NYSE Group, Inc. (''NYSE Group'') would merge with and into the Exchange's parent, CHX Holdings, Inc. (''CHX Holdings''), with CHX Holdings continuing as the surviving corporation. Pursuant to the Transaction, the Exchange and CHX Holdings would become indirect subsidiaries of Intercontinental Exchange, Inc. (''ICE''). On May 17, 2018, the Exchange filed Amendment No. 1 to the proposal.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on May 29, 2018.[4] On June 11, 2018, the Exchange filed Amendment No. 2 to the proposal.[5] On June 26, 2018, the Exchange filed Amendment No. 3 to the proposal.[6] The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(1) and (3) of the Exchange Act,[8] which, among other things, require a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Exchange Act, and to enforce compliance by its members and persons associated with its members with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the exchange, and assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission also finds that the proposal is consistent with Section 6(b)(5) of the Exchange Act,[9] which requires that the rules of the exchange be 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.

II. Discussion

A. Current and Proposed Ownership of the Exchange

Currently, the Exchange is a wholly-owned subsidiary of CHX Holdings, and CHX Holdings is beneficially owned by 197 firms or individuals, including Participants [10] or affiliates of Participants.

Pursuant to the terms of a Merger Agreement, dated April 4, 2018, by and among CHX Holdings, ICE, and Kondor Merger Sub, Inc., a wholly-owned subsidiary of NYSE Group (''Merger Sub''), Merger Sub would merge with and into CHX Holdings, and CHX Holdings would be the entity surviving the merger. Current holders of the common and preferred stock of CHX Holdings would receive cash in exchange for their shares.

Upon closing of the Transaction (''Closing''), NYSE Group would hold all of the outstanding and issued shares of CHX Holdings. NYSE Group is a wholly-owned subsidiary of NYSE Holdings, which is in turn wholly owned by ICE Holdings. ICE Holdings is wholly-owned by ICE (together, with NYSE Group, NYSE Holdings, and ICE, the ''ICE Holding Companies'').[11] CHX Holdings would continue to be the record and beneficial owner of all of the issued and outstanding shares of capital stock of CHX and the sole member of the Exchange's affiliated routing broker dealer, CHXBD, LLC (''CHXBD''). Closing is subject to satisfaction of customary conditions for a transaction of this nature, including approval of this proposed rule change by the Commission.

Following the Transaction, the Exchange would continue to be registered as a national securities exchange and as a separate self-regulatory organization (''SRO''). As such, the Exchange would continue to have separate rules, membership rosters, and listings that would be distinct from the rules, membership rosters, and listings of the four other registered national securities exchanges and SROs owned by NYSE Group, namely, the New York Stock Exchange LLC (''NYSE''), NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), and NYSE National, Inc. (''NYSE National'' and together with NYSE, NYSE American and NYSE Arca, the ''NYSE Exchanges'').

B. Proposed Rule Changes

Section 19(b) of the Exchange Act and Rule 19b–4 thereunder require an SRO to file proposed rule changes with the Commission. To effectuate the change in the ownership structure in connection with the proposed Transaction, the Exchange has proposed to amend the CHX Certificate, the CHX Bylaws, the CHX Holdings certificate of incorporation (''CHX Holdings Certificate''), CHX Holdings bylaws (''CHX Holdings Bylaws''), and the Exchange's rules. Although CHX Holdings, NYSE Group, NYSE Holdings, ICE Holdings, and ICE are not SROs, certain provisions of their proposed certificates of incorporation and bylaws, along with other corporate documents, are rules of the Exchange, if they are stated policies, practices, or interpretations, as defined in Rule 19b–4 under the Exchange Act, and must be filed with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder.[12] Accordingly, the Exchange has filed, and has proposed to adopt, as rules of the Exchange: (1) The certificate of incorporation of NYSE Group (''NYSE Group Certificate''); (2) the bylaws of NYSE Group (''NYSE Group Bylaws''); (3) the limited liability company agreement of NYSE Holdings LLC (''NYSE Holdings Agreement''); (4) the certificate of incorporation of ICE Holdings (''ICE Holdings Certificate''); (5) the bylaws of ICE Holdings (''ICE Holdings Bylaws''); (6) the certificate of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposed to: (1) Add new CHX Article 22, Rule 28, relating to requirements for trading securities issued by ICE or its affiliates; and (2) amend proposed CHX Article 19, Rule 2(b), relating to certain requirements with respect to a wholly-owned subsidiary of NYSE Group that would act as an inbound router to the Exchange. Amendment No. 1 was reflected in the notice of filing of proposed rule change that was published in the **Federal Register**. *See infra* note 4.

[4] *See* Securities Exchange Act Release No. 83303 (May 22, 2018), 83 FR 24517 (''Notice'').

[5] In Amendment No. 2, the Exchange proposed to amend Article FIFTH, Paragraph (g) of the CHX certificate of incorporation (''CHX Certificate'') and Article II, Section 6 of the CHX bylaws (''CHX Bylaws'') to provide that a vacancy in the CHX board of directors would be filled either by the remaining director(s) or stockholder action. Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-chx-2018-004/chx2018004-3818683-162751.pdf*.

[6] In Amendment No. 3, the Exchange proposed technical changes to the CHX Certificate so that the date the original certificate of incorporation was filed and the original name of the Exchange appear in the preamble instead of Article FIRST, and to delete ''the'' from the title of the CHX Certificate. Amendment No. 3 is available at: *https://www.sec.gov/comments/sr-chx-2018-004/chx2018004-3918683-166986.pdf*.

[7] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(1) and (b)(3).

[9] 15 U.S.C. 78f(b)(5).

[10] A ''Participant'' is considered a ''member'' of the Exchange for purposes of the Exchange Act. *See* CHX Article 1, Rule 1(s) (Definitions).

[11] ICE is a public company listed on the NYSE. ICE, ICE Holdings, and NYSE Group are Delaware corporations and NYSE Holdings is a Delaware limited liability corporation.

[12] *See* Section 3(a)(27) of the Exchange Act, 15 U.S.C. 78c(a)(27).

incorporation of ICE (''ICE Certificate''); (7) the bylaws of ICE (''ICE Bylaws''); and (8) the independence policy of the board of directors of ICE. In addition, the Exchange has filed with the Commission the text of a proposed resolution of CHX Holdings' board of directors to waive certain ownership and voting limitations to permit the Transaction.

1. Proposed Rule Changes To Waive the Ownership and Voting Limitations

The current CHX Holdings certificate of incorporation (''Current CHX Holdings Certificate'') provides that that no Person,[13] either alone or together with its Related Persons,[14] may, directly or indirectly: (1) Own shares of stock of CHX Holdings representing more than 40 percent of the then outstanding votes entitled to be cast on any matter; (2) if it is a Participant, own shares of stock of CHX Holdings representing more than 20 percent of the then outstanding votes entitled to be cast on any matter; or (3) pursuant to any voting trust, agreement, plan or other arrangement, vote or cause the voting of shares of the stock of CHX Holdings or give any consent or proxy with respect to shares representing more than 20 percent of the voting power of the then issued and outstanding capital stock of CHX Holdings; or enter into any agreement, plan or other arrangement (''Arrangement'') with any other Person, either alone or together with its Related Persons, under circumstances that would result in the subject shares of CHX Holdings not being voted on any matter or matters or any proxy relating thereto being withheld, where the effect of such Arrangement would be to enable any Person, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of shares of CHX Holdings which would represent more than 20 percent of such voting power.[15]

The CHX Holdings Certificate provides that the first and third ownership and voting limitations set forth above may be waived by the CHX Holdings board of directors by adopting an amendment to the bylaws, if, in connection with the adoption of such amendment, the board of directors also adopts certain resolutions.[16] In addition, the CHX Holdings Certificate provides that, notwithstanding the first and second ownership and voting limitations, a proposed sale, assignment or transfer of CHX Holdings stock above the percentage limitations shall not become effective until the board of directors of CHX Holdings has determined, by resolution, that such purchaser and its Related Persons are not subject to any applicable statutory disqualification.[17]

Waiver of the ownership and voting limitations must be filed with and approved by the Commission pursuant to Section 19 of the Exchange Act.[18] Furthermore, such Person seeking the waiver must deliver to the CHX Holdings board of directors not less than 45 days prior to any vote or acquisition, as appropriate, a notice of the intent to exceed the ownership and voting restrictions.[19]

Because NYSE Group's acquisition of all of the shares of CHX Holdings at Closing would violate these ownership and voting limitations, the CHX Holdings board of directors determined that in order to effect the Transaction, a waiver of the ownership and voting limitations with respect to the ICE Holding Companies would be required. To do so, the board of directors adopted resolutions (''Resolutions''), making certain determinations with respect to the ICE Holding Companies and the Transaction that are necessary to waive the ownership and voting limits. Specifically, the board of directors of CHX Holdings made the following determinations: (1) The acquisition of the proposed ownership by the ICE Holdings Companies will not impair the ability of the Exchange to carry out its functions and responsibilities as an ''exchange'' under the Exchange Act and the rules thereunder; are otherwise in the best interests of CHX Holdings and its stockholders and the Exchange; and will not impair the ability of the Commission to enforce the Exchange Act; and (2) none of the ICE Holding Companies, nor any of its Related Persons, is subject to ''statutory disqualification'' within the meaning of Section 3(a)(39) of the Exchange Act.

Article IV, Section 2(a) of the proposed CHX Holdings Certificate would ensure that any change in ownership of CHX Holdings would be subject to Commission approval, by providing that NYSE Group may not transfer or assign any stock unless such transfer or assignment is filed with and approved by the Commission under Section 19 of the Exchange Act.[20] The governing documents of NYSE Group, NYSE Holdings, and ICE Holdings also provide that any transfer or assignment of stock must be filed with or approved by the Commission under Section 19 of the Exchange Act.[21] Each of the NYSE Group Certificate, NYSE Holdings Agreement, and ICE Holdings Certificate provides that any changes to the provisions of such agreement must either be filed with and approved by the Commission pursuant to Section 19 of the Exchange Act or must be submitted to the Exchange's board of directors, and if the board so decides, the changes must be filed with and approved by the Commission.[22]

The Commission believes that it is consistent with the Exchange Act to allow the ICE Holding Companies to wholly-own and vote all of the outstanding common stock of CHX Holdings. The Commission notes that

[13] Current CHX Holdings Certificate, Article FIFTH, Paragraph (a)(i) defines ''Person'' as ''an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof.''

[14] Current CHX Holdings Certificate, Article FIFTH, Paragraph (a)(ii) defines ''Related Persons'' as ''(A) with respect to any Person, all 'affiliates' and 'associates' of such Person (as such terms are defined in Rule 12b–2 under the . . . Act . . .); (B) with respect to any Person that holds a permit issued by the . . . Exchange . . . to trade securities on the . . . Exchange (a 'Participant'), any broker or dealer with which a Participant is associated; and (C) any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of'' CHX Holdings.

[15] Article FIFTH, Paragraph (b)(ii) of the Current CHX Holdings Certificate. Article FIFTH includes provisions to address violations of the current ownership and voting limitations. *See* Article FIFTH, Paragraphs (d) and (e) of the Current CHX Holdings Certificate.

[16] Article FIFTH, Paragraph (b)(iii)(B) of the Current CHX Holdings Certificate, which provides that any such resolution must state that the board of director's determination is that such amendment (a) will not impair the ability of the Exchange to carry out its functions and responsibilities as an ''exchange'' under the Exchange Act, and the rules under the Exchange Act; (b) is otherwise in the best interests of CHX Holdings and its stockholders and the Exchange; (c) will not impair the ability of the Commission to enforce the Exchange Act, and (d) such amendment shall not be effective until approved by the Commission.

[17] *See* Article FIFTH, Paragraph (b)(iv) of the Current CHX Holdings Certificate, which provides that, notwithstanding the first and second ownership and voting limitations, ''in any case where a Person, either alone or together with its Related Persons, would own or vote more than the above percentage limitations upon consummation of any proposed sale, assignment or transfer of'' CHX Holdings' stock, ''such sale, assignment or transfer shall not become effective until the Board of Directors'' of CHX Holdings ''shall have determined, by resolution, that such Person and its Related Persons are not subject to any applicable 'statutory disqualification' (within the meaning of Section 3(a)(39)'' of the Exchange Act.

[18] *See* Article FIFTH, Paragraph (b)(v) of the Current CHX Holdings Certificate.

[19] *Id.*

[20] 15 U.S.C. 78s(b)(1).

[21] *See* NYSE Group Certificate Article IV, Section 4(a), NYSE Holdings Agreement Article VII, Section 7.2, and ICE Holdings Certificate Article IV.C.

[22] *See* NYSE Group Certificate Article XII, NYSE Holdings Agreement Article XVI, Section 16.1, and ICE Holdings Certificate Article X.

ICE, the new top-level holding company for the Exchanges, currently owns other national securities exchanges and is subject to governance documents that restrict concentration of ownership and voting rights.[23] As discussed below, CHX Holdings has also included in its corporate documents certain provisions designed to maintain the independence of the Exchange's regulatory functions.[24] Accordingly, the Commission does not believe that the Transaction will impair the ability of the Exchange to carry out its functions and responsibilities as an ''exchange'' under the Exchange Act and the rules and regulations promulgated thereunder, or the ability of the Commission to enforce the Exchange Act and the rules and regulations promulgated thereunder.

2. Ownership and Voting Limitations

In connection with the Transaction, upon Closing, ICE will become the indirect owner (through ICE Holdings, NYSE Holdings, NYSE Group, and CHX Holdings) of the Exchange.[25] The ICE Certificate includes restrictions on the ability to own and vote shares of capital stock of ICE. These limitations are designed to prevent any stockholder from exercising undue control over the operation of the Exchange and to assure that the Exchange and the Commission are able to carry out their regulatory obligations under the Exchange Act.

Specifically, the ICE Certificate includes restrictions on the ability to vote and own shares of stock of ICE. For so long as ICE directly or indirectly controls a national securities exchange, the ICE Certificate provides that no person, either alone or together with its related persons, shall be: (1) Entitled to vote or cause the voting of more than 10 percent of the then outstanding votes entitled to be cast on a matter, or (2) permitted to own shares of stock of ICE representing in the aggregate more than 20 percent of the then outstanding votes entitled to be cast on any matter. The ICE Certificate provides that ICE will be required to disregard any votes purported to be cast in excess of the voting restriction. The ICE Certificate also provides that in the event that any person(s) exceeds the ownership restrictions, it will be obligated to sell promptly, and ICE will be obligated to purchase promptly, at a price equal to the par value of such shares and to the extent funds are legally available for such purchase, the number of shares of ICE necessary so that such person, together with its related persons, will beneficially own shares of ICE representing in the aggregate no more than 20 percent of the then outstanding votes entitled to be cast on any matter, after taking into account that such repurchased shares will become treasury shares and will no longer be deemed to be outstanding. The ICE board of directors may waive the ownership and voting restrictions if it makes certain determinations and expressly resolves to permit the ownership and voting that is subject to such restrictions, and such resolutions have been filed with, and approved by, the Commission under Section 19(b) of the Exchange Act. The ICE Certificate further provides that the board of directors may not approve either voting or ownership rights in excess of a 20 percent threshold with respect to any person that is a member of an exchange controlled by ICE or who is subject to any statutory disqualification.

The Commission believes that ICE's ownership and voting limitations are reasonably designed to prevent any stockholder from exercising undue control over the operation of ICE, and in turn, over the operation of the Exchange. The Commission also notes that these ownership and voting limitations have previously been approved by the Commission[26] and are consistent with those approved by the Commission for other SROs[27] and believes that they are reasonably designed to assure that the Exchange and the Commission are able to carry out their regulatory obligations under the Exchange Act and in administering and complying with the requirements of the Exchange Act. Moreover, the Commission believes that the ownership and voting limits are reasonably designed to eliminate the potential that the control of the Exchange by one or few stockholders would improperly interfere with or impair the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Exchange Act.

In addition to being designed to eliminate the potential of any stockholder from exercising undue control over the Exchange, the Commission also notes that the restrictions applicable to members of an exchange are designed to address the conflicts of interests that might result from a member of a national securities exchange owning interests in the exchange. As the Commission has noted in the past, a member's interest in an exchange could become so large as to cast doubts on whether the exchange may fairly and objectively exercise its self-regulatory responsibilities with

[23] *See* Article V of the ICE Certificate. *See infra* Section II.B.2.

[24] *See* Article XI of the proposed CHX Holdings Certificate and Article III of the proposed CHX Holdings Bylaws.

[25] Because the governing documents of CHX Holdings, NYSE Group, NYSE Holdings, and ICE Holdings provide that any transfer or assignment of stock must be filed with or approved by the Commission under Section 19 of the Exchange Act, any change in control of such ICE Holding Companies would be subject to Commission approval. *See supra* notes 19–22 and accompanying text.

[26] *See, e.g.,* Securities Exchange Act Release No. 71721 (March 13, 2014), 79 FR 15367 (March 19, 2014) (SR–NYSE–2014–04; SR–NYSEMKT–2014–10; SR–NYSEArca–2014–08).

[27] *See, e.g.,* Securities Exchange Act Release Nos. 79585 (December 16, 2016), 81 FR 93988 (December 22, 2016) (SR–BatsBZX–2016–68) (approving similar restrictions in connection with the merger of Bats Global Markets, Inc. and CBOE Holdings, Inc.) (''BATS–CBOE Approval Order''); 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR–ISE–2016–11, SR–ISE Gemini–2016–05, SR–ISE Mercury–2016–10) (approving similar restrictions proposed in connection with Nasdaq, Inc. becoming the indirect parent of International Securities Exchange, ISE Gemini, LLC, and ISE Mercury, LLC); 74270 (February 13, 2015), 80 FR 9286 (February 20, 2015) (SR–NSX–2014–017) (approving similar restrictions in connection with National Stock Exchange, Inc. becoming a wholly-owned subsidiary of National Stock Exchange Holdings, Inc.); 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGA–2013–34; SR–EDGX–2013–43) (approving similar restrictions in connection with the merger of BATS Global Markets, Inc. and Direct Edge Holdings LLC); 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059, SR–BYX–2013–039) (approving similar restrictions in connection with the merger of BATS Global Markets, Inc. and Direct Edge Holdings LLC); 70210 (August 15, 2013), 78 FR 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (File No. 10–198) (approving similar restrictions in connection with the registration Bats BYX Exchange, Inc. as a national securities exchange); 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File Nos. 10–194 and 10–196) (approving similar restrictions in connection with the registrations of EDGX Exchange, Inc. and EDGA Exchange, Inc. as national securities exchanges); 58375 (August 18, 2008), 73 FR 49498 (August 21, 2008) (File No. 10–182) (approving similar restrictions in connection with the registration of BATS Exchange, Inc. as a national securities exchange); 56955 (December 13, 2007), 72 FR 71979, 71982–84 (December 19, 2007) (SR–ISE–2007–101) (approving similar restrictions in connection with International Securities Exchange Holdings, Inc. becoming a wholly-owned indirect subsidiary of Eurex Frankfurt AG); 55293 (February 14, 2007); 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (approving similar restrictions in connection with the merger of New York Stock Exchange, Inc. and Archipelago); 53963 (June 8, 2006), 71 FR 34660 (June 15, 2006) (File No. SR–NSX–2006–03) (approving similar restrictions in connection with the demutualization of the National Stock Exchange); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving similar restrictions in connection with the registration the Nasdaq Stock Market LLC as a national securities exchange); 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26) (approving similar restrictions in connection with the demutualization of CHX); and 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (SR–Phlx–2003–73) (approving similar restrictions in connection with the demutualization of the Philadelphia Stock Exchange, Inc.).

respect to such member.[28] A member that is a controlling stockholder of an exchange could seek to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and conduct surveillance of the member's conduct or diligently enforce the exchange's rules and the federal securities laws with respect to conduct by the member that violates such provisions. As such, these restrictions on Exchange members' ownership and voting of ICE stock are expected to minimize the potential that a person or entity can improperly interfere with or restrict the ability of CHX to effectively carry out its regulatory oversight responsibilities under the Exchange Act.

3. Jurisdiction; Books and Records; Due Regard

As described above, following the Closing, ICE will remain the sole stockholder of ICE Holdings, ICE Holdings will remain the sole stockholder of NYSE Holdings, NYSE Holdings will remain the sole member of NYSE Group, NYSE Group will become the sole stockholder of CHX Holdings, and CHX Holdings will remain the sole stockholder of the Exchange. Although ICE, ICE Holdings, NYSE Holdings, NYSE Group, and CHX Holdings will not carry out any regulatory functions, their activities with respect to the operation of the Exchange must be consistent with, and must not interfere with, the self-regulatory obligations of the Exchange. The ICE Bylaws,[29] ICE Holdings Bylaws,[30] NYSE Holdings Agreement,[31] NYSE Group Certificate,[32] and CHX Holdings Certificate [33] therefore include certain provisions that are designed to maintain the independence of the Exchange's self-regulatory functions, enable the Exchange to operate in a manner that complies with the federal securities laws, including the objectives of Sections 6(b) [34] and 19(g) [35] of the Exchange Act, and facilitate the ability of the Exchange and the Commission to fulfill their regulatory and oversight obligations under the Exchange Act.

For example, under the CHX Holdings Certificate, CHX Holdings, its directors, officers, and employees, must give due regard to the preservation of the independence of the self-regulatory function of the Exchange (to the extent of the Exchange's self-regulatory function), as well as to its obligations to investors and the general public and must not take any actions that would interfere with the effectuation of any decisions by the board of directors of the Exchange relating to its regulatory functions (including disciplinary matters), or which would interfere with the ability of the Exchange to carry out its responsibilities under the Exchange Act.[36]

The CHX Holdings Certificate would further require that CHX Holdings complies with the U.S. federal securities laws and rules and regulations thereunder and shall cooperate with the Commission and the Exchange, pursuant to and to the extent of their respective regulatory authority, and shall take reasonable steps necessary to cause its agents to cooperate with the Commission and, where applicable, the Exchange, pursuant to their regulatory authority.[37] The CHX Holdings Certificate also provides that CHX Holdings shall take reasonable steps necessary to cause its officers, directors and employees, prior to accepting their positions, to consent to the applicability of Section 7 of Article V (''Considerations of the Board''), Article IX (''Jurisdiction''), Article X (''Confidential Information''), and Section 3 of Article XI of the CHX Holdings Certificate (relating to giving due regard to the independence of the self-regulatory function of the Exchange) with respect to their activities related to the Exchange.[38] In addition, the CHX Holdings Certificate provides that in discharging his or her responsibilities as a member of the board or as an officer or employee of CHX Holdings, each such director, officer, or employee shall (1) comply with the federal securities laws and the rules and regulations thereunder, (2) cooperate with the Commission, and (3) cooperate with the Exchange pursuant to and to the extent of its regulatory authority.[39] Furthermore, CHX Holdings, its directors and officers, and those of its employees whose principal place of business and residence is outside of the United States, shall be deemed to irrevocably submit to the jurisdiction of the United States federal courts and the Commission for the purposes of any suit, action, or proceeding pursuant to the United States federal securities laws and the rules and regulations thereunder, commenced or initiated by the Commission arising out of, or relating to, the activities of the Exchange.[40]

The CHX Holdings Certificate also provides that as long as CHX Holdings directly or indirectly controls any national securities exchange, the books, records, premises, officers, directors, and employees of CHX Holdings shall be deemed to be the books, records, premises, officers, directors, and employees of the Exchange for purposes of and subject to oversight pursuant to the Exchange Act.[41]

The CHX Holdings Certificate also provides that all confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices, and audit information) contained in the books and records of the Exchange that shall come into the possession of CHX Holdings, shall not be made available to any persons other than to those officers, directors, employees, and agents of CHX Holdings, that have a reasonable need to know the contents thereof, and shall be retained in confidence by CHX Holdings, and the officers, directors, employees, and agents of CHX Holdings, and not used for any commercial purposes.[42] The CHX Holdings Certificate, however, specifies that the CHX Holdings Certificate (including these confidentiality provisions) shall not be interpreted so as to limit or impede the rights of the Commission or the Exchange to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees, or agents of CHX Holdings to disclose such confidential information to the Commission or the Exchange.[43] In addition, the CHX Holdings Certificate provides that CHX Holdings' books and records shall be subject at all times to inspection and

[28] *See, e.g.,* BATS–CBOE Order, *supra* note 27, at 93990.

[29] *See* Articles VII, VIII, IX, and IX of the ICE Bylaws.

[30] *See* Articles VII, VIII, IX, and XI of the ICE Holdings Bylaws.

[31] *See* Articles XII, XIII, XIV, and Article XVI, Section 16.1 of the NYSE Holdings Agreement.

[32] *See* Articles IX, X, XI, and XII of the NYSE Group Certificate.

[33] *See* Articles IX, X, XI, and XII of the proposed CHX Holdings Certificate.

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78s(g).

[36] Article XI, Section 3 of the proposed CHX Holdings Certificate.

[37] Article XI, Section 1 of the proposed CHX Holdings Certificate.

[38] Article XI, Section 2 of the proposed CHX Holdings Certificate.

[39] Article V, Section 7 of the proposed CHX Holdings Certificate.

[40] Article IX of the proposed CHX Holdings Certificate.

[41] Article X of the proposed CHX Holdings Certificate.

[42] Article X of the proposed CHX Holdings Certificate.

[43] Article X of the proposed CHX Holdings Certificate.

copying by the Commission and the Exchange.[44]

The CHX Holdings Certificate and CHX Holdings Bylaws provide that as long as CHX Holdings controls, directly or indirectly, a registered national securities exchange, before any amendment to, or repeal of, any provision of the CHX Holdings Certificate and CHX Holdings Bylaws, as the case may be, may be effective, those changes must be either filed with or filed with and approved by the Commission under Section 19 of the Exchange Act and the rules promulgated thereunder or submitted to the board of directors of each such exchange, and if the amendment is required to be filed with, or filed with and approved by the Commission pursuant to Section 19(b) of the Exchange Act, such change shall not be effective until filed with, or filed with and approved by, the Commission.[45]

The Commission finds that these provisions are consistent with the Exchange Act, and that they are intended to assist the Exchange in fulfilling its self-regulatory obligations and in administering and complying with the requirements of the Exchange Act. The Commission also notes that, even in the absence of these provisions, under Section 20(a) of the Exchange Act,[46] any person with a controlling interest in the Exchange shall be jointly and severally liable with and to the same extent that the Exchange is liable under any provision of the Exchange Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action. In addition, Section 20(e) of the Exchange Act [47] creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Exchange Act or rule thereunder. Further, Section 21C of the Exchange Act [48] authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Exchange Act through an act or omission that the person knew or should have known would contribute to the violation.

[44] Article X of the proposed CHX Holdings Certificate.

[45] Article XII of the proposed CHX Holdings Certificate and Section 7.9(b) of the proposed CHX Holdings Bylaws.

[46] 15 U.S.C. 78t(a).

[47] 15 U.S.C. 78t(e).

[48] 15 U.S.C. 78u–3.

4. CHX Board of Directors

As noted above, the Exchange will become part of a corporate family including five separate registered national securities exchanges following consummation of the Transaction. The Exchange represented that it is important for each of such exchanges to have a consistent approach to corporate governance in certain matters; therefore, to simplify complexity and create greater consistency among the NYSE Exchanges, CHX proposed to revise the provisions of the CHX Bylaws and CHX Certificate to mirror the comparable provisions in the certain of the NYSE Exchanges.[49] Specifically, as discussed below, the Exchange proposed to make the number, composition, term of office and qualifications of the Exchange board of directors (''Board'') consistent with the make-up of the boards of directors of the NYSE Exchanges.

Currently, the CHX Bylaws generally provide that the Board shall be composed of between 10 and 16 directors, the exact number to be determined by the Board; the CHX Bylaws also set forth the compositional requirements for the Board. The Exchange proposed to amend the CHX Bylaws to provide that the number of directors would be determined from time to time by the stockholders subject to the compositional requirements for the Board, which require that at least 50 percent of the directors on the Exchange's Board be persons from the public and not be, or be affiliated with, a broker-dealer in securities or employed by, or involved in any material business relationship with, the Exchange or its affiliates (''Public Directors''); and at least 20 percent of the directors consist of individuals nominated by the trading permit holders who are permitted to trade on the Exchange's facilities for the trading of equities that are securities as covered by the Exchange Act (collectively, ''Permit Holders'') (such directors, the ''STP Participant Directors'').[50] The Exchange also proposed that for purposes of calculating the minimum number of STP Participant Directors, if 20 percent of the directors is not a whole number, such number of directors to be nominated and selected by the Permit Holders be rounded up to the next whole number, and that the term of office of a director not be affected by any decrease in the authorized number of directors.[51] The revised provisions also would require the nominees for a director position to provide to the Secretary of the Exchange such information as is reasonably necessary to serve as the basis for a determination of the nominee's qualifications as a director, and that the Secretary make such determination concerning the nominee's qualifications.[52]

The Exchange also proposed to amend Article II, Section 2(c) of the CHX Bylaws, which sets forth the structure of the Board. Currently, the Board is divided into three classes serving three-year terms, with the term of office of one class expiring each year, and directors continue in office after the expiration of their terms until their successors are elected or appointed and qualified, except in the event of early resignation, removal, or disqualification. The Exchange proposed to replace this provision to provide that at each annual meeting of the stockholders, the stockholders will elect directors to serve until the next annual meeting or until their successors are elected and qualified.[53] The Exchange also proposed that the Board shall appoint the Chairman of the Board by majority vote, and that each director shall hold office for a term that expires at the annual meeting of the stockholders next following his or her election, provided that if he or she is not re-elected and his or her successor is not elected and qualified at the meeting and there remains a vacancy on the Board, he or she shall continue to serve until his or her successor is elected and qualified or until his or her earlier death, resignation, or removal.[54] The CHX Bylaws also would provide that a director may serve for any number of terms, consecutive or otherwise.[55] The Exchange represented that the change from a three-class board with staggered terms to a board with one class of directors elected annually would make the organization of the Board consistent with those of all of the NYSE Exchanges.[56]

The Exchange proposed that except as otherwise provided in the CHX Bylaws or the Exchange's rules, the shareholder shall nominate directors for election at the annual meeting of the shareholder, which nominations shall comply with

[49] *See* Notice, *supra* note 4, at 24520.

[50] *See* proposed CHX Bylaws, Article II, Section 2(a).

[51] *Id.*

[52] *See* proposed CHX Bylaws, Article II, Section 2(b). The Exchange noted that proposed Article II, Sections 2(a) and (b) would be consistent with the NYSE National Bylaws and NYSE Arca Bylaws. *See* Notice, *supra* note 4, at 24521.

[53] *See* proposed CHX Bylaws, Article II, Section 2(c).

[54] *See* proposed CHX Bylaws, Article II, Section 2(d).

[55] *Id.*

[56] *See* Notice, *supra* note 4, at 24522.

the Exchange's rules and the CHX Bylaws.[57]

The Exchange also proposed to amend the CHX Bylaw provisions relating to the nomination and election of the Board to make these provisions similar to the provisions in the NYSE Arca and NYSE National Bylaws, subject to certain terms specific to the Exchange.[58] Currently, the Nominating and Governance Committee (''NGC'') of the Exchange consists of two Public Directors and two Original STP Participant Directors, one of whom must not be a representative of a firm that is a holder of Series A Preferred Stock of CHX Holdings. The NGC also is currently appointed by the Board. The Exchange proposed that the Nominating Committee be composed solely of STP Participant Directors and/or Permit Holder representatives, and proposed to rename the NGC to the ''Nominating Committee.'' [59]

The Exchange also proposed to amend the provisions relating to the process for nominating candidates to the Board. Currently, the Bylaws provide that each year the NGC shall nominate persons who will qualify as Participant Directors pursuant to the procedures set forth in the Bylaws. The Exchange proposed to adopt a new process for nominating nominees to the Board. Specifically, pursuant to Article II, Section 3(b) of the CHX Bylaws, CHX proposed that the Nominating Committee shall publish the name(s) of one or more Participants as its nominee(s) for STP Participant Directors of the Board. The Nominating Committee would name sufficient nominees so that at least 20 percent of the directors consist of STP Participant Directors, and the names of the nominees shall be published on a date in each year sufficient to accommodate the process described (''Announcement Date''). After the name of the proposed nominee(s) is published, the CHX Bylaws allow Permit Holders in good standing to submit a petition to the Exchange in writing to nominate additional eligible candidate(s) to fill STP Participant Director position(s) during the next term. If a written petition of at least 10 percent of Permit Holders in good standing is submitted to the Nominating Committee within two weeks after the Announcement Date, such person(s) would also be nominated by the Nominating Committee, provided, however, that no Permit Holder, either alone or together with other Permit Holders that are deemed its affiliates, may account for more than 50 percent of the signatories to the petition endorsing a particular petition nominee for the STP Participant Director position(s) on the Board. Article 2, Section 3(b) of the CHX Bylaws would stipulate that each petition for a petition candidate must include a completed questionnaire used to gather information concerning director candidates, with the form of the questionnaire provided by the Exchange upon the request of any Permit Holder. The same provision also provides that, notwithstanding anything to the contrary, the Nominating Committee shall determine whether any petition candidate is eligible to serve on the Board (including whether such person is free of any statutory disqualification), and such determination shall be final and conclusive.

In Article II, Section 3(c) of the CHX Bylaws, the Exchange also proposed a petition election process in the event that the number of nominees exceeds the number of available seats. In this case, the Nominating Committee shall submit the contested nomination to the Permit Holders for selection. Permit Holders would be afforded a confidential voting procedure and be given no less than 20 calendar days to submit their votes. A Permit Holder in good standing may select one nominee for the contested seat on the Board; provided, however that no Permit Holder, either alone or together with other Permit Holders who are deemed its affiliates, may account for more than 20 percent of the votes cast for a particular nominee for the STP Participant Director position(s) on the Board. With respect to the contested position, the Exchange proposed that the nominee for the Board receiving the most votes of Permit Holders shall be submitted by the Nominating Committee to the Board and that the Nominating Committee shall also submit uncontested nominees to the Board, and tie votes shall be decided by the Board at its first meeting following the election. Finally, the Exchange proposed that the Board shall appoint the Nominating Committee.[60]

The Exchange also proposed to amend Article II, Section 6 of the current CHX Bylaws, which addresses how vacancies on the Board shall be filled. Currently, this provision provides that any vacancy on the Board due to ''the death, retirement, resignation, disqualification or removal of a director'' or to an increase in the number of directors between annual meetings ''shall be filled only with a person nominated by the Chairman and Vice Chairman of the Corporation and elected by a majority of the directors then in office, though less than a quorum or by a sole remaining director,'' with the caveat that, when stockholders remove a director from office for cause, the stockholders may fill the vacancy at the same meeting.

The Exchange proposed to revise this provision to also provide that vacancies also may be filled by action taken by the stockholders of the Exchange.[61] Therefore, pursuant to the CHX Bylaws, vacancies on the Board may be filled (i) with a person nominated by the Chairman and Vice Chairman of the Exchange and elected by a majority of the directors then in office, though less than a quorum or by a sole remaining director, or (ii) by action taken by the stockholders of the Exchange. As a result, CHX Holdings, as the stockholder of the Exchange, would be able to fill vacancies on the Board, include any that exist following the Transaction. The Exchange represented that this provision would be consistent with the bylaws of NYSE Arca and NYSE National, as well as the bylaws of other SROs, such as CBOE Exchange, Inc. and CBOE BYX Exchange, Inc.[62]

Finally, the Exchange proposed to restructure and amend Article FIFTH of the CHX Certificate governing the composition, nomination and election of its Board to more closely align with the proposed amended CHX Bylaws and the relevant provisions of the other NYSE Exchanges, to make certain administrative and conforming changes.[63]

In addition, the Exchange has proposed to amend CHX Article 2, Rules 2, 3, 4, and 11, to conform with proposed changes to the CHX Bylaws and CHX Certificate related to the Exchange Board, which are discussed above, and to reduce the minimum size of the Board's Executive, Finance, and Regulatory Oversight Committees to three members, conforming the committee size to the governing documents of the NYSE Exchanges, all of which provide that their respective regulatory oversight committees consist of three directors.

The Commission believes that the proposed changes to the CHX Bylaws and CHX Certificate related to the number, composition, term of office, and qualifications of the Board are

[57] *See* proposed CHX Bylaws, Article II, Section 2(f). According to the Exchange, this provision would be consistent with the NYSE National Bylaws and NYSE Arca Bylaws. *See* Notice, *supra* note 4, at 24522.

[58] *See* Notice, *supra* note 4, at 24522.

[59] *See* proposed CHX Bylaws, Article II, Section 3(a).

[60] *See* proposed CHX Bylaws, Article II, Section 3(d).

[61] *See* Amendment No. 2, *supra* note 5, at 4.

[62] *See* Amendment No. 2, *supra* note 5, at 3.

[63] *See* Notice, *supra* note 4, at 24523–24.

consistent with Section 6(b)(3) of the Exchange Act in that they assure the fair representation of CHX members on the CHX Board, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. In particular, the Commission finds that the requirements that at least 20 percent of the Board be comprised of STP Participant Directors and 50 percent of the Board be comprised of Public Directors are consistent with the requirements of Section 6(b)(3). In addition, the Commission finds that the proposed provisions of the CHX Bylaws and CHX Certificate relating to the number, term of office, and qualifications of the Board are consistent with Section 6(b)(1) of the Exchange Act in that they are designed to assist the Exchange in fulfilling its self-regulatory obligations and administering and complying with the requirements of the Exchange Act.

5. Miscellaneous Changes to Organizational Document

The Exchange has proposed to make non-substantive technical and conforming changes throughout the CHX Certificate and CHX Bylaws to reflect the Exchange's new ownership, including updating corporate names, defined terms, and cross-references. In addition, the Exchange has proposed to amend the ICE Independence Policy to reflect the change in ownership of the Exchange and to provide similar protections to the Exchange as are currently provided to the NYSE Exchanges by the policy. In addition, the Exchange has proposed to remove outdated or obsolete references.

The Commission believes that these amendments are consistent with the Exchange Act as they are technical in nature. They do not alter any of the restrictions contained in CHX Certificate or CHX Bylaws. The amendments merely update such governing documents to reflect the new ownership of the Exchange.

6. Inbound Router

The Exchange states that upon Closing, Archipelago Securities, LLC (''ArcaSec''), a Participant of the Exchange and wholly-owned subsidiary of NYSE Group, will become an affiliate of the Exchange. CHX Article 3, Rule 20 provides that a Participant shall not be or become an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, in the absence of an effective filing under Section 19(b) of the Exchange Act.[64] The Exchange represents that the Exchange and ArcaSec will each operate in essentially the same manner upon Closing as it operates today, and that therefore, upon the Closing, ArcaSec will not operate as a ''facility'' of the Exchange, as defined under Section 3(a)(2) of the Exchange Act,[65] and will continue to act, and be regulated by the Exchange, as a Participant on the same terms as any other Participant, apart from CHXBD.

The Exchange has proposed to add a new subparagraph (b) to CHX Article 19, Rule 2 to provide that ArcaSec may act as an inbound router, and to impose certain limitations and conditions to ArcaSec's affiliation with the Exchange to permit the Exchange to accept inbound orders that ArcaSec routes. Specifically, proposed Rule 2(b)(1) would provide that, for so long as the Exchange is affiliated with the NYSE Exchanges and ArcaSec, in its capacity as a facility of the NYSE Exchanges, is utilized for the routing of any approved types of orders from those exchanges to the Exchange (such function of ArcaSec is referred to as the ''Inbound Router''), each of the Exchange and ArcaSec shall undertake as follows: (1) The Exchange shall maintain an agreement pursuant to Rule 17d–2 under the Exchange Act (''Rule 17d–2 Plan'') with a non-affiliated SRO to relieve the Exchange of regulatory responsibilities for ArcaSec with respect to rules that are common rules between the Exchange and the non-affiliated SRO; [66] (2) the Exchange shall maintain a regulatory services agreement (''RSA'') with a non-affiliated SRO to perform regulatory responsibilities for ArcaSec for unique Exchange rules; (3) the RSA shall require the Exchange and the non-affiliated SRO to monitor ArcaSec for compliance with the Exchange's trading rules, and collect and maintain, in an easily accessible manner, all alerts, complaints, investigations and enforcement actions (collectively ''Exceptions'') in which ArcaSec (in routing orders to the Exchange) is identified as a participant that has potentially violated applicable Exchange or Commission rules. The RSA shall require that the non-affiliated SRO provide a report, at least quarterly, to the Chief Regulatory Officer of the Exchange quantifying all Exceptions; (4) the Exchange, on behalf of the holding company owning both the Exchange and ArcaSec, shall establish and maintain procedures and internal controls reasonably designed to prevent ArcaSec from receiving any benefit, taking any action or engaging in any activity based on non-public information regarding planned changes to Exchange systems, obtained as a result of its affiliation with the Exchange, until such information is available generally to similarly situated Participants of the Exchange in connection with the provision of inbound order routing to the Exchange; and (5) the Exchange may furnish to ArcaSec the same information on the same terms that the Exchange makes available in the normal course of business to any other Participant. Proposed Rule 2(b)(2) would state that, provided the above conditions are complied with, ArcaSec may provide inbound routing services to the Exchange from the NYSE Exchanges.[67]

In the past, the Commission has expressed concern that the affiliation of an exchange with one of its members raises potential conflicts of interest and the potential for unfair competitive advantage.[68] Although the Commission continues to be concerned about potential unfair competition and conflicts of interest between an exchange's self-regulatory obligations and its commercial interest when the exchange is affiliated with one of its members, the Commission believes that it is consistent with the Exchange Act to permit ArcaSec, in its capacity as a facility of each of the NYSE Exchanges, to route orders inbound to the Exchange, subject to the limitations and conditions described above.[69] The Commission believes that the limitations and conditions in CHX Article 19, Rule 2(b) will mitigate its concerns about potential conflicts of interest and unfair competitive advantage. In particular, the

[64] 15 U.S.C. 78s(b).

[65] 15 U.S.C. 78c(a)(2).

[66] ''Common rules'' would be defined in the Rule 17d–2 Plan.

[67] The Exchange will ensure a Rule 17d–2 Plan is in place and comply with the other listed conditions prior to ArcaSec acting as an Inbound Router of the Exchange.

[68] *See, e.g.,* Securities Exchange Act Release Nos. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving the combination of the New York Stock Exchange, Inc. and Archipelago Holdings, Inc.); 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–Amex–2008–62 and SR–NYSE–2008–60) (order approving the combination of NYSE Euronext and the American Stock Exchange LLC); 59281 (January 22, 2009), 74 FR 5014 (January 28, 2009) (SR–NYSE–2008–120) (order approving a joint venture between NYSE and BIDS Holdings L.P.); 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File Nos. 10–194 and 10–196) (order granting the exchange registration of EDGX Exchange, Inc. and EDGA Exchange, Inc.); and 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (File No. 10–198) (order granting the exchange registration of BATS–Y Exchange, Inc.).

[69] The Commission notes that the proposed conditions are similar to those of other NYSE Exchanges. *See* NYSE Arca Rule 7.45–E(c), NYSE Rule 17(c)(2), and NYSE American Rule 7.45E(c).

Commission believes that the Rule 17d–2 Plan, RSA, and Exception reporting requirements, procedures, and internal controls would help protect the independence of the Exchange's self-regulatory function with respect to ArcaSec. The Commission also believes that the proposed rule is designed to prevent ArcaSec from acting on non-public information obtained as a result of its affiliation with the Exchange, and that the proposed changes are consistent with the Exchange Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Amendment Nos. 2 and 3 to the proposed rule change is consistent with the Exchange 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 email to *rule-comments@sec.gov.* Please include File Number SR–CHX–2018–004 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–CHX–2018–004. This file number should be included on the subject line if email 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 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2018–004, and should be submitted on or before August 9, 2018.

IV. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 prior to the 30th day after the date of publication of notice of Amendments Nos. 2 and 3 in the **Federal Register**. As noted above, Amendment Nos. 2 and 3 do not change the structure or purpose of the proposed rule change as it was previously published for notice and comment.[70] The Commission believes that an additional notice and comment period for Amendment Nos. 2 and 3 before approval of the proposed rule change would not be in furtherance of the public interest or the protection of investors. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[71] to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, on an accelerated basis.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendments Nos. 1, 2, and 3 is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act[72] that the proposed rule change (SR–CHX–2018–004), as modified by Amendments Nos. 1, 2, and 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[73]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15370 Filed 7–18–18; 8:45 am]

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[70] *See supra* notes 5 and 6.

[71] 15 U.S.C. 78s(b)(2).

[72] 15 U.S.C. 78s(b)(2).

[73] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17f–6; SEC File No. 270–392, OMB Control No. 3235–0447

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17f–6 (17 CFR 270.17f–6) under the Investment Company Act of 1940 (15 U.S.C. 80a) permits registered investment companies (''funds'') to maintain assets (*i.e.,* margin) with futures commission merchants (''FCMs'') in connection with commodity transactions effected on both domestic and foreign exchanges. Before the rule was adopted, funds generally were required to maintain such assets in special accounts with a custodian bank.

The rule requires a written contract that contains certain provisions designed to ensure important safeguards and other benefits relating to the custody of fund assets by FCMs. To protect fund assets, the contract must require that FCMs comply with the segregation or secured amount requirements of the Commodity Exchange Act (''CEA'') and the rules under that statute. The contract also must contain a requirement that FCMs obtain an acknowledgment from any clearing organization that the fund's assets are held on behalf of the FCM's customers according to CEA provisions.

Because rule 17f–6 does not impose any ongoing obligations on funds or FCMs, Commission staff estimates there are no costs related to *existing* contracts between funds and FCMs. This estimate does not include the time required by an FCM to comply with the rule's contract requirements because, to the extent that complying with the contract provisions could be considered ''collections of information,'' the burden hours for compliance are already included in other PRA submissions.[1]

[1] The rule requires a contract with the FCM to contain two provisions requiring the FCM to comply with existing requirements under the CEA