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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66243; File No. SR-NSX-2012-03)

January 26, 2012

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Effectuate an Amendment to Its Amended and Restated Certificate of Incorporation to Include a Reference to Section 242 of the General Corporation Law of the State of Delaware

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on January 20, 2012, National Stock Exchange, Inc. 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 the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

National Stock Exchange, Inc. ("NSX®" or "Exchange") proposes to effectuate an amendment to its Amended and Restated Certificate of Incorporation to include a reference to Section 242 of the General Corporation Law of the State of Delaware.

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,

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

2 17 CFR 240.19b-4.

of the most significant parts of such statements.

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

1. Purpose

With this rule change, the Exchange is proposing to effectuate an amendment to its Amended and Restated Certificate of Incorporation ("Certificate") to include a reference to Section 242 of the General Corporation Law of the State of Delaware ("Delaware Corporation Law").

Section 242 of Delaware Corporation Law refers to amendments to certificates of incorporation after the receipt of payment for stock.[3] Section 242 states that, after receipt of payment for stock, a corporation "may amend its certificate of incorporation . . . so long as its certificate of incorporation as amended would contain only such provisions as it would be lawful and proper to insert in an original certificate of incorporation filed at the time of the filing of the amendment."[4] Amended certificates of incorporation must explicitly reference Section 242 to be deemed acceptable for filing with the Delaware Secretary of State.

On November 28, 2011, the Exchange filed with the Commission, as part of its Exhibit 5 to a rule filing seeking Commission approval of the acquisition of the Exchange by CBOE Stock Exchange, LLC, a proposed form of Certificate. The Certificate in the form proposed was approved by the Commission on December 29, 2011.[5] However, the Certificate in the form proposed failed to contain an explicit reference to Section 242 of Delaware Corporation Law. Instead, the last sentence in the first paragraph of the approved Certificate stated ". . . [p]ursuant

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3 8 Del. C. 1953, 242.

4 8 Del. C. 1953, 242(a).

5 See Securities Exchange Act Release No. 66071 (December 29, 2011) (SR-NSX-2011-14 and SR-CBOE-2011-107).

to, and being duly adopted in accordance with, Section 245 of the General Corporation Law of the State of Delaware, this . . . Certificate . . . amends and restates the Restated Certificate of Incorporation in its entirety . . ."

On December 30, 2011, the Certificate, in the form approved by the Commission (i.e., without explicit reference to Section 242), was submitted for filing to the Delaware Secretary of State. The Delaware Secretary of State refused to accept the Certificate unless a reference to Section 242 was added to the text of the Certificate. Such reference was added and the Certificate, as modified, was accepted by and successfully filed with the Delaware Secretary of State. As a result, pursuant the instant rule filing, the Exchange is proposing to amend the text of the Certificate previously filed with, and approved by, the Commission by explicitly referencing Section 242 of the Delaware Corporation Law in the text of the Certificate immediately before the reference to Section 245. In so doing, the Exchange seeks to fully comply with Delaware Corporation Law and with the Securities Exchange Act of 1934 (the "Act").

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[6] in general, and Section 6(b)(4) of the Act,[7] in particular, in that it is designed, among other things, to promote clarity, transparency and full disclosure, in so doing, to prevent fraudulent and manipulative acts and practices, 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.

Moreover, the proposed rule change is not discriminatory in that it is solely administrative and does not affect the rights of any ETP Holder, does not impact any other provision of the

6 15 U.S.C. 78f(b).

7 15 U.S.C. 78f(b)(4).

Certificate, and is consistent with the Commission's recent order approving the Certificate. The proposed amendment simply adds to the Certificate an explicit cross-reference to applicable law and consequently constitutes a technical amendment that relates solely to the administration of the Exchange and the Exchange's ability to successfully file the Certificate with the Delaware Secretary of State.

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

The Exchange does not believe that the proposed rule change will result in 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(3) of Rule 19b-4[9] thereunder, because, as provided in (f)(3), the proposed rule change is concerned solely with the administration of the self-regulatory organization. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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 Securities and Exchange Act of 1934.

IV. Solicitation of Comments

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8 15 U.S.C. 78s(b)(3)(A)(ii).

9 17 CFR 240.19b-4.

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-NSX-2012-03 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NSX-2012-03. 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 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 such filing will also 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 No. SR-NSX-2012-03 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill
Deputy Secretary

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[10] 17 CFR 200.30-3(a)(12).