TCS TECH
TCS : TECH
Where Free Markets Meet Technology

> HOME DEFENSE ENVIRO-SCI

Search
TCS Sections

Friday, August 05, 2005 00:01:20

TCS > TECH > STOCK MARKET

Hilary Kramer
President, A&G Capital Group

Email Author
Biographical

Where Change is Bad

By Hilary Kramer 05/20/2003

E-Mail Bookmark Print Save

NYSE
New York Stock Exchange

TCS

Some people just don't like to change. You know the ones - they talk about how new things are destroying old values and how things were better in the good old days. For the most part, they fear change because they're comfortably set in their ways. It doesn't really matter whether or not the old ways were better or worse. Even if the changes are in fact improvements and provide better financial efficiency and fairness - change is change and *change is bad*.

You might think that after all the great innovations we've enjoyed over the years that nobody really holds this view anymore. But just look to our own Securities and Exchange Commission and their buddies at the New York Stock Exchange and you'll see them happily living back in 1939.

During that year, the SEC adopted Rule 500 as an addendum to the Exchange Act of 1934. Rule 500 effectively and expressly deters companies that are publicly traded on the New York Stock Exchange from moving to other stock exchanges. The rule was somewhat modified in 1999. However, in its current form, this provision still requires companies choosing to delist from the NYSE to fulfill several significant and onerous obstacles. So there've been some changes, but basically, we when we review the complicated and burdensome process of leaving the NYSE to head over to another exchange, it is clear that some people have their hands gripped tightly around 1939 - and they won't let go.

Here's why: First, a NYSE-listed company must obtain the approval of its Board of Directors and issue a press release informing its shareholders of the company's intention to move to another exchange. Secondly, Rule 500 requires that the NYSE-listed company then secures approval from its audit committee - a subcommittee made up of members of the Board of Directors. While the audit committee may hold expertise in matters relating to accounting standards and accuracy of financial statements, there is no indication that this small and select body has any special proficiency over the Board as a whole in determining the appropriateness of a stock exchange. And we know what people do when they are in doubt or don't quite understand an issue - they say "change is bad".

Next, Rule 500 requires NYSE-listed companies to specifically notify its 35 largest shareholders in writing of its intention to move from the NYSE. Remember again that the company has *already* obtained Board approval for the move. Also note that a company can execute a number of more substantial decisions - like firing the CEO or moving its headquarters - without consulting its 35 largest shareholders. Still, this additional stipulation exists, so one can only surmise that it was put into place to delay or inhibit switching to new exchanges.

Finally, Rule 500 requires NYSE-listed companies to wait a minimum of 20 days and a maximum of 60 days before actually switching to another exchange. Here, the SEC doesn't even try to hide its intentions. This simply delays the process and affords the NYSE every opportunity - in the meantime - to prevent any switch.

These additional regulations are more than a mere nuisance. Requiring shareholder notice and imposing waiting periods are burdensome rules comparable to what would be expected in the process of dissolving a company. It sends an unmistakable message to shareholders that switching stock exchanges is an ominous move and a portentous action.

:: NEWEST ARTICLES ::
- 'Regime Decapitation'
- Greenpeace and Nanotechnology
- The Virtues of Being Virtual

:: ARTICLES BY AUTHOR ::
- Webfare Warfare

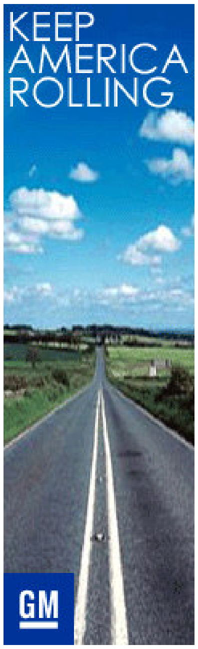
:: ARTICLES BY ISSUE ::
- Tipping Toward Google
- Early Birds Get Returns
- Dubble Bubble?

public opinion

Will importing prescription drugs from Canada help American consumers?

○ Yes
○ No
○ Not Sure

SUBMIT



The truth is that there are other exchanges and platforms that provide significant liquidity and speed. More importantly, these alternatives can provide a more efficient execution system and, thus, greater benefit and economic efficiencies for the buyers and sellers. But, in spite of this and even if the company's *own Board* has already approved the move, these additional rules and requirements for leaving the NYSE remain in effect.

Notice also that the above requirements continue to refer to "NYSE-listed" companies. There's a reason for that - Rule 500 *only* applies to NYSE-listed companies, and *never* to moves from other exchanges to the NYSE. NASDAQ and the American Stock Exchange, for instance, place no such additional restrictions on their listed companies. What are they doing? They are encouraging competition presumably because they can handle it and are not concerned about losing their members.

At its most basic level, fair and open competition among stock exchanges improves pricing. The anticompetitive nature of Rule 500 was on full display earlier this year when the NYSE increased its listing fees, despite protests from NYSE-listed companies like Delta Air Lines, Federated Department Stores and AMR Corporation - companies that are hardly in a position to take on higher fees for anything right now. In a letter to the SEC in January 2003, the American Stock Exchange bluntly stated:

> "The normal amount of price discrimination is stymied because NYSE companies cannot freely exit the NYSE as a result of the constraints imposed by Rule 500. Rule 500 thereby confers effective monopoly power on the NYSE, which is free to raise prices with impunity."

And why not keep a few monopolies around in the 21st Century to make things more like the good old days of Carnegie Steel and Standard Oil? It can almost be the same again - with only one game in town and huge barriers to the new kids on the block.

Price efficiency isn't the only benefit lost due to lack of competition. Competition promotes advancement - particularly with progressive concepts such as transparency and corporate governance. Conflicts-of-interest and scandals like the recent front-running controversy are less likely to happen or continue in more open and competitive environments.

◀ BACK

✉ E-Mail Bookmark Print Save

feedback ▸▸ Post Feedback TCS Live Chat

▸ govt inefficiency by Mark

[tech] [defense] [enviro-sci]

© 2005 Tech Central Station : About Us : Privacy : Disclaimer : Toolbox : Links Home ↑ Top