

with the protection of investors and the public interest. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change as required by Rule 19b-4(f)(6).<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE has requested that the Commission waive the 30-day delayed operative date, as permitted by Rule 19b-4(f)(6)(iii), so that the proposed rule change may become operative immediately. The Exchange believes that such waiver is appropriate so that a company that qualifies for the exemption and is filing its annual report with the Commission during the 30 days after the effective date of the proposal may be relieved of the obligation to issue a press release in relation to its filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it relieves companies of an obligation that may be redundant for companies that already meet the delivery requirements applicable to annual reports set forth in the U.S. proxy rules, and that in any case will no longer be applicable to companies similarly situated after the 30-day period.<sup>9</sup> Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange 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 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2008-128 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-NYSE-2008-128. 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, on official business days between the hours of 10 a.m. and 3 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2008-128 and should be submitted on or before January 20, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59120; File No. SR-NYSEALTR-2008-13]

### Self-Regulatory Organizations; NYSE Alternext US LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Minimum Price Variation of \$0.01 for Orders and Quotations in Bonds Admitted to Dealings on NYSE Alternext

December 18, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 16, 2008, NYSE Alternext US LLC ("NYSE Alternext" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 86—NYSE Alternext Equities to conform with amendments to NYSE Rule 86 recently filed by the New York Stock Exchange LLC ("NYSE").

#### 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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

The purpose of the proposed rule change is to amend Rule 86—NYSE Alternext Equities to conform with amendments to NYSE Rule 86 recently filed by the NYSE that establish a

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

minimum price variation of \$0.01 for orders and quotations in bonds admitted to dealings through the NYSE Bonds system.

#### Background

As described more fully in a related rule filing,<sup>3</sup> NYSE Euronext acquired The Amex Membership Corporation (“AMC”) pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the “Merger”). In connection with the Merger, the Exchange’s predecessor, the American Stock Exchange LLC (“Amex”), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext US LLC, and continues to operate as a national securities exchange registered under Section 6 of the Act.<sup>4</sup> The effective date of the Merger was October 1, 2008.

In connection with the Merger, on December 1, 2008, the Exchange relocated all equities trading conducted on the Exchange legacy trading systems and facilities located at 86 Trinity Place, New York, New York, to trading systems and facilities located at 11 Wall Street, New York, New York (the “Equities Relocation”). The Exchange’s equity trading systems and facilities at 11 Wall Street (the “NYSE Alternext Trading Systems”) are operated by the NYSE on behalf of the Exchange.<sup>5</sup>

Similarly, on December 1, 2008, the Exchange relocated the trading of certain debt securities conducted on the 86 Trinity Trading Systems to an automated bond trading system (“NYSE Alternext Bonds”) that is operated by the NYSE on behalf of the Exchange (the “Bonds Relocation”).<sup>6</sup>

As part of the Equities and Bonds Relocations, NYSE Alternext adopted NYSE Rules 1–1004, subject to such changes as necessary to apply the rules to the Exchange, as the NYSE Alternext Equities Rules to govern trading on the NYSE Alternext Trading Systems and NYSE Alternext Bonds.<sup>7</sup> The NYSE

Alternext Equities Rules, which became operative on December 1, 2008, are substantially identical to the current NYSE Rules 1–1004 and the Exchange continues to update the NYSE Alternext Equities Rules as necessary to conform with rule changes to corresponding NYSE Rules filed by the NYSE.

#### NYSE Alternext Bonds

NYSE Alternext Bonds is the Exchange’s electronic system for receiving, processing, executing and reporting bids, offers and executions in bonds. Rule 86—NYSE Alternext Equities prescribes how bonds are traded through the NYSE Alternext Bonds platform, including the receipt, execution and reporting of bond transactions. As noted above, and as described more fully in the filing adopting the platform for the Exchange, NYSE Alternext Bonds is based on NYSE Bonds and is operated by the NYSE on behalf of the Exchange.<sup>8</sup>

#### Proposed Amendments to Rule 86—NYSE Alternext Equities

The Exchange proposes to amend Rule 86—NYSE Alternext Equities to conform to amendments to NYSE Rule 86 recently filed by the NYSE that establish a minimum price variation to \$0.01 for orders and quotations in bonds admitted to dealings through the NYSE Bonds system.<sup>9</sup>

Rule 86(f)—NYSE Alternext Equities currently provides that NYSE Alternext Bonds will accept bids and offers in bonds priced to three decimal places (\$0.001). The Exchange proposes to amend that paragraph to provide that, like NYSE Bonds, NYSE Alternext Bonds will accept bids and offers in bonds priced to two decimal places (\$0.01).

The Exchange believes that the proposed rule change is necessary and appropriate to update the NYSE Alternext Bonds platform in conformity with changes made to the NYSE Bonds

platform on which it is based. In addition, the Exchange believes this change will place its bond trading on a more competitive basis with how bonds are traded on other systems. Since the implementation of NYSE Alternext Bonds, the Exchange has sought to increase liquidity on the platform. The Exchange believes that some of its potential liquidity providers, *e.g.*, retail customers, have been reluctant to place orders representing such liquidity when there is a high possibility that their orders can be “stepped ahead” by other orders that “improve” the price by a sub-penny. To address this, the Exchange believes that a two decimal minimum price variation will act to level the playing field among its bond customers, and serve to make the Exchange bond market more attractive to a retail customer base.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</sup> in particular, in that it is designed 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. The proposal also supports the principles of Section 11A(a)(1)<sup>12</sup> of the Act in that it seeks to ensure the economically efficient execution of securities transactions, to make it practicable for brokers to execute investors’ orders in the best market, and to provide an opportunity for investors’ orders to be executed without the participation of a dealer.

The Exchange believes that the proposed rule change is necessary and appropriate to update Rule 86—NYSE Alternext Equities, governing the NYSE Alternext Bonds platform, to conform with changes made to the NYSE Bonds platform on which it is based. In addition, the Exchange believes the proposed rule change will place the NYSE Alternext Bonds platform on a more competitive basis with other markets trading bonds.

<sup>3</sup> See Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR–Amex 2008–62) (approving the Merger).

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR–Amex 2008–63) (approving the Equities Relocation).

<sup>6</sup> See Securities Exchange Act Release No. 58833 (October 22, 2008), 73 FR 64642 (October 30, 2008) (SR–NYSE–2008–106) and Securities Exchange Act Release No. 58839 (October 23, 2008), 73 FR 64645 (October 30, 2008) (SR–NYSEALTR–2008–03) (together, approving the Bonds Relocation).

<sup>7</sup> See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR–Amex 2008–63) (approving the Equities Relocation); Securities Exchange Act Release No. 58833 (October 22, 2008), 73 FR 64642 (October 30, 2008) (SR–NYSE–2008–106) and Securities

Exchange Act Release No. 58839 (October 23, 2008), 73 FR 64645 (October 30, 2008) (SR–NYSEALTR–2008–03) (together, approving the Bonds Relocation); Securities Exchange Act Release No. 59022 (November 26, 2008), 73 FR 73683 (December 3, 2008) (SR–NYSEALTR–2008–10) (adopting amendments to NYSE Alternext Equities Rules to track changes to corresponding NYSE Rules); Securities Exchange Act Release No. 59027 (November 28, 2008), 73 FR 73681 (December 3, 2008) (SR–NYSEALTR–2008–11) (adopting amendments to Rule 62—NYSE Alternext Equities to track changes to corresponding NYSE Rule 62).

<sup>8</sup> See Securities Exchange Act Release No. 58833 (October 22, 2008), 73 FR 64642 (October 30, 2008) (SR–NYSE–2008–106) and Securities Exchange Act Release No. 58839 (October 23, 2008), 73 FR 64645 (October 30, 2008) (SR–NYSEALTR–2008–03) (together, approving the Bonds Relocation).

<sup>9</sup> See SR–NYSE–2008–129 (formally submitted on December 16, 2008).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78k–1(a)(1).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received with respect to the proposed rule change.

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

The Exchange represented that the proposed rule change qualifies for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder<sup>14</sup> because it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>15</sup>

The Exchange has requested that the Commission waive the 30-day operative delay, so that the proposed rule change may become operative upon filing. The Commission hereby grants the Exchange's request and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>16</sup> As a result of this action, the Exchange will be able to implement without undue delay a proposed rule change that reduces the likelihood of quotations or orders on NYSE Alternext Bonds from being stepped ahead of by an insignificant amount. Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate

such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEALTR-2008-13 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-NYSEALTR-2008-13. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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; 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-NYSEALTR-2008-13 and should be submitted on or before January 20, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59117; File No. SR-NYSEArca-2008-134]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. To Amend the Sanctioning Guidelines

December 18, 2008.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 11, 2008, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 10.16 ("Sanctioning Guidelines"). A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice requirement in this case.

<sup>16</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).