

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59418; File No. SR-NYSEALTR-2009-07)

February 18, 2009

Self-Regulatory Organizations; NYSE Alternext US LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Provide Instructions as to the Payment of Listing Fees in Connection with the Listing of Additional Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on February 2, 2009, NYSE Alternext US LLC (“NYSE Alternext” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes as described in Items I and II below, which items have been prepared by the Exchange. NYSE Alternext filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

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

The Exchange proposes to amend Section 332 of the Exchange’s Company Guide to provide instructions as to the payment of listing fees in connection with the listing of additional securities. The text of the proposed rule change is available on the Exchange’s Website (<http://www.nyse.com>), at the Exchange’s Office of the Secretary and at the Commission’s Public Reference room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

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 these statements may be examined at the places specified in Item IV below. NYSE Alternext has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

1. Purpose

Section 332 of the Exchange's Company Guide provides that a check drawn to the order of "NYSE Alternext US LLC" should accompany each application for the listing of additional securities of a previously listed class. In the absence of specific instruction to the contrary, it has been the Exchange's experience that many companies have complied with the plain wording of this provision and forwarded the check along with the listing application to the regulatory staff that are responsible for processing the listing applications. The Exchange believes that it is inappropriate for the employees of NYSE Regulation who process listing applications to be accepting payments on behalf of the business. Furthermore, the internal routing of checks to the Exchange's Treasury Department from NYSE Regulation leads to unnecessary delays and the possibility that checks may be lost or not cashed on a timely basis. As such, the Exchange proposes to amend Section 332 to provide that checks in payment of listing fees in connection with listings of additional shares should be sent to the following address:

NYSE Alternext US LLC
Attn: Treasury Department
20 Broad Street, 9th Floor
New York, NY 10005

Section 332 as amended will require that checks sent to the Treasury Department in payment of listing fees should be accompanied by a copy of the related listing application required by Section 303 of the Company Guide, to ensure that Exchange staff knows to apply the funds to the listing fee obligation incurred in connection with that listing application. Companies should continue to provide a copy of the listing application required by Section 303, accompanied by the exhibits detailed in Section 306, to the staff of NYSE Regulation who process listing applications on behalf of NYSE Alternext.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)⁵ that an Exchange have rules that are 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. The Exchange believes that the proposed amendment to Section 332 is consistent with the requirements of Section 6(b)(5), as it simply provides practical guidance as to how to make payments of listing fees payable to the Exchange in connection with listings of additional securities, without making any change to the fees themselves.

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 Exchange Act.

⁵ 15 U.S.C. 78f(b)(5).

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms, become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.⁸ 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. The Exchange requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii).

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so would enable the Exchange to immediately direct issuers to send checks for the listing of additional shares to the appropriate non-regulatory staff, and ensure proper application of the fees. Further, the proposal will help to

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

maintain the integrity of the Exchange's review process for the listing of additional shares by ensuring the NYSE regulatory staff is not improperly accepting payments on behalf of the listing business. Accordingly, the Commission designates the proposed rule change as operative upon filing.⁹

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. Please include File Number SR-NYSEALTR-2009-07 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-NYSEALTR-2009-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

⁹ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 10:00 am and 3:00 pm. 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-2009-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).