



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

DIVISION OF  
MARKET REGULATION

July 13, 2006

Sebastian R. Sperber  
Cleary Gottlieb Steen & Hamilton LLP  
55 Basinghall St.  
London EC2V 5EH, England  
United Kingdom

Re: Offer by NYSE Euronext, Inc. for Shares of Euronext N.V.  
TP No.: 06-84

Dear Mr. Sperber:

We are responding to your July 13, 2006 letter to James A. Brigagliano. Our response is attached to the enclosed copy of your letter to avoid having to recite or summarize the facts set forth in your letter. Unless otherwise noted, capitalized terms in this letter have the same meaning as in your letter.

On the basis of your representations and the facts presented, but without necessarily concurring in your analysis, the United States Securities and Exchange Commission ("Commission") hereby grants an exemption from Rule 14e-5 under the Securities Act of 1934 ("Exchange Act") to permit the Financial Advisors to engage in the Trading Activities in the Euronext Securities through the expiration of the Offer, particularly in light of the following facts:

- The Offer is required to be conducted in accordance with French law, in particular the General Rules of the AMF;
- Euronext, N.V., a company organized under the laws of The Netherlands ("Euronext"), is a foreign private issuer as defined in Rule 3b-4(c) under the Exchange Act;
- All purchases of Euronext Securities by the Affiliates and Departments of the Financial Advisors will be subject to French laws and rules, including the General Rules of the AMF and other applicable regulatory requirements in the jurisdictions in which the Euronext Securities are listed;

- All purchases of the Euronext Securities by the Financial Advisors through their respective Affiliates and Departments during the Offer will be effected in the ordinary course of business and will not be undertaken for the purposes of promoting or otherwise facilitating the Offer, or for the purpose of creating actual, or apparent, active trading in, maintaining, or affecting the prices of the Euronext Securities;
- The respective Affiliates and Departments of the Financial Advisors will voluntarily comply with the United Kingdom's City Code on Takeovers and Mergers ("City Code") as described in your letter;
- UBS Securities LLC and Morgan Stanley & Co. Inc., each affiliates of the Financial Advisors, are registered under Section 15(a) of the Exchange Act;
- The Financial Advisors maintain and enforce written policies and procedures that are reasonably designed to prevent the flow of information to or from their respective Affiliates and Departments that might result in a violation of the federal securities laws through the establishment of information barriers;
- Each of the Affiliates and Departments of the Financial Advisors that conducts the Trading Activities has no officers (or persons performing similar functions) or employees (other than clerical, ministerial, or support personnel) who direct, effect, or recommend transactions in the Euronext Securities and who are also involved in providing Euronext, NYSE Group and/or NYSE Euronext with financial advisory services or dealer manager services in the future; and
- Purchases of Euronext Securities outside the Offer are permitted under applicable French rules.

The Commission grants this exemption from Rule 14e-5 under the Exchange Act to permit the Financial Advisors' respective Affiliates and Departments to purchase or arrange to purchase Euronext Securities otherwise than pursuant to the Offer, subject to the following conditions:

1. No purchases or arrangements to purchase Euronext Securities, otherwise than pursuant to the Offer, shall be made in the United States;
2. The formal tender offer documents shall disclose prominently the possibility of, or the intention to make, purchases of Euronext Securities by the Affiliates and/or Departments;
3. The Financial Advisors shall disclose in the United States information regarding purchases of Euronext Securities to the extent such information is made public in France;
4. The Financial Advisors and their respective Affiliates and Departments shall comply with any applicable requirements under French law, including the General Rules of the AMF and any other applicable rules or regulations;

5. The Financial Advisors shall provide to the Division of Market Regulation (“Division”) upon request, a daily time-sequenced schedule of all purchases of Euronext Securities made by the Financial Advisors’ Affiliates and/or Departments during the Offer, on a transaction-by-transaction basis, including:
  - a. size, broker (if any), time of execution, and price of purchase; and
  - b. the exchange, quotation system, or other facility through which the purchase occurred;
6. Upon the request of the Division, each of the Financial Advisors shall transmit the information specified in paragraphs 5(a) and 5(b) to the Division at its offices in Washington, D.C. within 30 days of its request;
7. The Financial Advisors shall retain all documents and other information required to be maintained pursuant to this exemption for a period of not less than two years from the date of the termination of the Offer;
8. Representatives of each of the Financial Advisors shall be made available (in person at the offices of the Division in Washington, D.C. or by telephone) to respond to inquiries of the Division relating to their records; and
9. Except as otherwise exempted herein, the Financial Advisors and their respective Affiliates and Departments shall comply with Rule 14e-5.

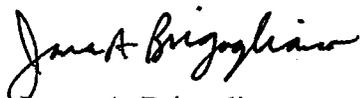
The foregoing exemption is based solely on your representations and the facts presented in your letter dated July 13, 2006, and is strictly limited to the application of the rules and statutory provisions listed above to your proposed transactions. Such transactions should be discontinued, pending presentation of the facts for our consideration, in the event that any material change occurs with respect to any of those facts or representations.

In addition, we direct your attention to the anti-fraud and anti-manipulation provisions of the federal securities laws, including Sections 10(b) and 14(e) of the Exchange Act and Rule 10b-5 thereunder. The participants in the Offer must comply with these and any other applicable provisions of the federal securities laws. The Division expresses no view with respect to any other questions that the proposed transactions may raise, including, but not limited to, the

Sebastian R. Sperber  
July 13, 2006  
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adequacy of disclosure concerning, and the applicability of any other federal or state laws to, the proposed transactions.

For the Commission,  
by the Division of Market Regulation  
pursuant to delegated authority



James A. Brigagliano  
Acting Associate Director  
Division of Market Regulation

Attachment

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DIVISION OF MARKET REGULATION

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July 13, 2006

## VIA FACSIMILE

U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549  
U.S.A.

Attention: Mr. James A. Brigagliano  
Acting Associate Director,  
Division of Market Regulation

Re: Offer by NYSE Euronext, Inc. for Shares of Euronext N.V.

Dear Mr. Brigagliano:

We are writing to you on behalf of UBS AG, a company organized under the laws of Switzerland, acting through UBS Limited, and Morgan Stanley & Co. Limited (collectively, the "Financial Advisors"), who, directly or through affiliates, are acting as financial advisors to Euronext N.V., a company organized under the laws of The Netherlands ("Euronext"). The advisory engagements relate to the agreement of Euronext and NYSE Group, Inc., a Delaware corporation ("NYSE Group") to combine their respective businesses in a merger of equals and become subsidiaries of a newly formed holding company, NYSE Euronext, Inc., a Delaware corporation ("NYSE Euronext"). In connection with the merger of equals, NYSE Euronext, or a subsidiary of NYSE Euronext, will launch an exchange offer (the "Offer") for all outstanding Euronext ordinary shares. We hereby request, on behalf of the Financial Advisors and their affiliates, exemptive relief from the provisions of Rule 14e-5 ("Rule 14e-5") under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with respect to certain trading activities of the Financial Advisors and their affiliates during the pendency of the Offer, as

described below. Please also note that, although the Offer has been publicly announced, it will not formally commence until the requisite regulatory approvals are received and certain other conditions precedent are satisfied.

## I. Background

### A. Euronext

Euronext, a holding company incorporated under Dutch law that operates through local subsidiaries, was created on September 22, 2000 from the merger of the Amsterdam, Brussels and Paris stock exchanges. The Euronext group expanded at the beginning of 2002 with the acquisition of the London International Financial Futures and Options Exchange and the merger with the Portuguese exchange Bolsa de Valores de Lisboa e Porto. Euronext is a “foreign private issuer” (as defined in Rule 3b-4 under the Exchange Act) that is not subject to the reporting requirements of the Exchange Act.

Euronext provides financial market participants with a range of integrated services for regulated stock and derivatives markets in Belgium, France, The Netherlands and Portugal, in addition to derivatives services in the United Kingdom. These services range from facilitating public offerings and providing trading facilities for cash and derivatives products to supplying market data. Euronext also sells software and information technology solutions. Euronext is the leading stock exchange in Europe based on trading volumes on the central order book.

Since its initial public offering on July 5, 2001, Euronext shares (the “Euronext Shares”) have been listed on Euronext’s Paris market, the Trading Facility segment of Euronext Brussels and the Traded-But-Not-Listed segment of Euronext Amsterdam. In addition, equity option contracts on Euronext Shares have traded on Liffe Connect® since November 23, 2003. We refer to the exchanges on which Euronext securities trade, Euronext Paris, Euronext Brussels, Euronext Amsterdam and Liffe Connect®, as the “Exchanges.” As of July 6, 2006, Euronext’s market capitalization amounted to approximately €8.2 billion, divided into approximately 112.6 million issued and outstanding shares. As of May 22, 2006, there were up to an additional 2.5 million shares reserved for issuance in connection with outstanding options over Euronext Shares. Euronext’s registered office is in Amsterdam.

To calculate the level of U.S. ownership in Euronext in accordance with the guidelines set forth in Rule 14d-1 under the Exchange Act would require Euronext to “look through” the record owners in France, The Netherlands and the United States and inquire of such record owners regarding beneficial U.S. ownership. As noted in prior no-action requests, to carry out this process in France in an uncontested transaction would normally take approximately two months, and the parties do not currently expect to conduct this process in advance of the commencement of the Offer.<sup>1</sup> We understand, however, that Euronext reviews the composition of

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<sup>1</sup> For a discussion of the general manner of calculating U.S. beneficial ownership of shares held through Euroclear France SA, see letter regarding the offer by Alcan Inc. for Common Shares, Bonus Allocation Rights, ADSs and OCEANEs of Pechiney (October 8, 2003) and letter regarding the offer by Serono S.A. for Genset (September 12, 2002).

its shareholder base monthly by requesting TPI reports (*titres au porteur identifiable*) from Euroclear France SA and making follow-on inquiries of relevant financial institutions. Recent public disclosures by Euronext indicate that U.S. persons own more than 10% but less than 40% of the outstanding Euronext Shares.

B. NYSE Euronext

NYSE Euronext is a newly formed Delaware corporation that will, directly or through a subsidiary, make the Offer for all outstanding Euronext Shares and cause its subsidiary to merge with and into NYSE Group (the “Merger”). The ordinary shares of NYSE Euronext are expected to be listed on the New York Stock Exchange, trading in U.S. dollars, and on Euronext Paris, trading in euros. It is estimated that approximately 266 million ordinary shares of NYSE Euronext will be outstanding following the completion of the Offer and the Merger. A successful combination between NYSE Group and Euronext under NYSE Euronext is expected to create an entity that will have average daily trading values of approximately \$100 billion, with total market capitalization of listed companies of \$27 trillion. Ordinary shares of NYSE Euronext will be registered under Section 12 of the Exchange Act and NYSE Euronext will file reports pursuant to Section 13(a) of the Exchange Act.

NYSE Group is the result of the merger of the New York Stock Exchange and Archipelago Holdings, Inc. on March 7, 2006. NYSE Group is a leading provider of securities listing, trading and market data products and services. As of July 6, 2006, NYSE Group had a market capitalization of \$10.4 billion, divided as of June 1, 2006 into approximately 156.1 million shares, with an additional 1.4 million shares of common stock underlying restricted stock units, 1.9 million shares of common stock underlying options to acquire shares of NYSE Group and 8.5 million shares of common stock reserved for issuance to NYSE Group employees and directors. Ordinary shares of the NYSE Group trade on the New York Stock Exchange and are registered under Section 12 of the Exchange Act. NYSE Group files reports pursuant to Section 13(a) of the Exchange Act.

C. The Offer

On June 1, 2006, Euronext and NYSE Group publicly announced that they had entered into a Combination Agreement, dated as of June 1, 2006 (the “Combination Agreement”), pursuant to which NYSE Group and Euronext agreed to combine their respective businesses in a merger of equals and become subsidiaries of a newly formed holding company, NYSE Euronext. The Combination Agreement was filed by NYSE Group with the U.S. Securities and Exchange Commission (the “Commission”) under cover of Form 8-K on June 2, 2006.

Under the terms of the Combination Agreement, NYSE Euronext (or a subsidiary of NYSE Euronext) will launch the Offer for all outstanding Euronext Shares. In the Offer, Euronext shareholders will have the right to exchange each of their Euronext Shares for 0.980 of a share of NYSE Euronext common stock and €21.32 in cash. In lieu of receiving this standard offer consideration, Euronext shareholders will be able to make a cash election to receive all NYSE Euronext ordinary shares or all cash for their Euronext Shares through a “mix and match”

formula, which will be subject to pro ration and adjustment, as specified in the Combination Agreement. Euronext will also be permitted to pay its previously announced extraordinary distribution of €3.00 per share.

Upon completion of the Offer, the Merger will be consummated, pursuant to which a wholly owned subsidiary of NYSE Euronext will merge with and into NYSE Group, with NYSE Group surviving as a wholly owned subsidiary of NYSE Euronext. In the Merger, each share of NYSE Group common stock will be converted into one share of NYSE Euronext common stock.

As promptly as practicable after the date of the Combination Agreement, NYSE Group and NYSE Euronext have agreed to prepare, and NYSE Euronext has agreed to file with the Commission, a registration statement on Form S-4 to register the offer and sale of NYSE Euronext ordinary shares pursuant to the Offer and the Merger. NYSE Euronext will also file with the Commission a prospectus pursuant to Rule 424 under the U.S. Securities Act of 1933 in connection with the Offer.

In addition, as promptly as practicable after the date of the Combination Agreement, NYSE Group and NYSE Euronext have agreed to prepare, and NYSE Euronext shall file with the French Financial Market Authority (*Autorité des Marchés Financiers*) (the "AMF"), a Share Registration Document (*Document de Base*) for the Offer in the form provided by Commission Regulation (EC) No. 809/2004 of April 2004 as implemented by the General Rules of the AMF, as may be amended from time to time. As soon as the relevant conditions precedent have been satisfied or waived, NYSE Euronext and Euronext will jointly file with the AMF a Tender Offer Prospectus (*Note d'Information*) in accordance with the General Rules of the AMF and the related letter of transmittal form and other ancillary documents with respect to the Offer.

NYSE Group and Euronext may agree to split the Offer into two or more separate exchange offers, including a separate U.S. offer and a non-U.S. offer.

The Offer is subject to the following conditions precedent, as more fully set forth in the Combination Agreement:

- (a) Approval of the combination of NYSE Group and Euronext by the shareholders of each entity, in each case by a simple majority of the shares present and voting;
- (b) The tender by Euronext shareholders of at least two-thirds of the outstanding Euronext Shares as of the close of the Offer (provided that this condition may be reduced to a majority of the outstanding Euronext Shares);
- (c) Approval by requisite governmental regulators and authorities, including approvals under applicable antitrust laws;

- (d) The listing of NYSE Euronext common stock on the New York Stock Exchange and Euronext Paris;
- (e) The absence of certain governmental proceedings;
- (f) The absence of any law or order prohibiting the completion of the combination of NYSE Group and Euronext;
- (g) The receipt of certain tax opinions and/or private letter rulings;
- (h) Subject to certain exceptions, the accuracy of representations and warranties of the other party; and
- (i) Material compliance of the other party with its covenants.

Certain of these conditions are for the benefit of NYSE Group, Euronext and/or NYSE Euronext. Although failure of any of these conditions would entitle the relevant party to prevent commencement of or withdraw the Offer, each party reserves the right to proceed with or maintain the Offer, as the case may be, even if a relevant condition precedent is not satisfied.

Since it is NYSE Euronext's intention to acquire all the outstanding Euronext Shares, should any Euronext Shares remain outstanding after the completion of the Offer, NYSE Euronext will consider the options available to it to acquire all of Euronext's share capital, including through any available compulsory buy-out procedure, merger or other corporate reorganization.

#### D. AMF Regulations Applicable to the Offer

The Offer in France is subject to the General Rules of the AMF, which provides a comprehensive framework for the regulation of French tender and exchange offers and trading in French markets. In France, the Offer will be communicated through the Tender Offer Prospectus, which will be filed jointly with the AMF by NYSE Euronext and Euronext. Upon the initial filing of the Tender Offer Prospectus and related documents with the AMF, the AMF will publish the principal terms and conditions of the Offer, after which time the General Rules of the AMF will apply to the conduct of the Offer. Under the General Rules currently in force, for the Offer to proceed in France, it must be approved (*recevabilité*) by the AMF, indicating that the terms and conditions of the Offer comply with applicable regulations, and the Tender Offer Prospectus must receive the visa of the AMF, which indicates that the Tender Offer Prospectus complies with applicable regulations. The AMF has issued new draft rules applicable to tender offers, which are expected to come into force in the following months and which could have an impact on the manner in which the Offer is conducted. Under the draft rules published by the AMF, the visa and *recevabilité* process would be combined into a single clearance decision (*déclaration de conformité*) that would be issued by the AMF.

Pursuant to the General Rules of the AMF, following receipt of the visa on the Tender Offer Prospectus, the target company has five French Trading Days (as defined below)

after the publication of the Tender Offer Prospectus to publish its recommendation statement (*note d'information en réponse*). The AMF then has three French Trading Days (five French Trading Days under the proposed draft rules) to grant its visa to the recommendation statement, and the target has two French Trading Days to publish the recommendation statement in a French financial newspaper. The expiration date for the offer is 25 French Trading Days after publication of the Tender Offer Prospectus following receipt of the AMF's visa (or, under the proposed draft rules, after receipt of the clearance decision). The AMF sets the expiration date for the relevant offer. A "French Trading Day" is any day other than a Saturday, Sunday or holiday as determined by Euronext and published in its "Bulletin Quotidien."

Under applicable French law and regulation, an offeror is permitted to make an offer conditional on (i) the tender of a specified number of shares, (ii) receipt of certain antitrust and competition law approvals, and (iii) receipt of certain required French regulatory approvals, but is otherwise severely limited in its ability to condition its offer. In the instant case, the Offer is subject to the tender of two-thirds of the outstanding Euronext Shares as of the close of the Offer, which amount may be reduced to a majority of the outstanding Euronext Shares. The Offer is also subject to receipt of approvals of other regulatory authorities, in addition to the resolution of certain other factors.

Book II of the General Rules of the AMF also includes a "best price" rule that automatically increases the offer price for offered shares if the offeror, or persons acting in concert with it, make market purchases of target shares at a price higher than the offer price.

The General Rules of the AMF also set forth additional trading and disclosure rules that will be applicable to the Offer. Pursuant to these rules, (1) Euronext, NYSE Euronext and persons or legal entities acting in concert with either company are barred from trading in the securities affected by the Offer (including the securities of both Euronext and NYSE Euronext); (2) the financial advisors to the offeror or the target company, the sponsoring institutions and companies in their corporate groups are not permitted to act as principal in the markets for the securities affected by the Offer otherwise than for arbitrage, market marking or position-hedging purposes and provided that such transactions are made in the normal course of business and involve personnel, resources, objectives and accountabilities separate from those connected with the Offer; and (3) all orders for Euronext securities must be executed on a regulated market.<sup>2</sup>

With respect to the prohibition mentioned in (2) above, the AMF has specified that: (a) regarding trading as principal that is unrelated to any transaction for a client's account, arbitrage is only permitted either to cover positions in place prior to the announcement of any exchange offer or to reduce the risk exposure (through either the scale down or the unwinding of positions) resulting from positions in place prior to the announcement of any exchange offer; (b) regarding trading as principal in relation to a client's order, acting as counterparty to a client's order is only permitted if the intermediary is in a position to unwind its position the same day as that of the trade with its client; provided, however, that entering into a repo agreement is not considered as unwinding this position and that the intermediary does not solicit trades from its

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<sup>2</sup>Article 232.14 *et seq.* of the General Rules of the AMF.

clients in order to act as counterparty; (c) any derivatives trading initiated after the announcement of an exchange offer is prohibited if it could impact the percentage of share capital and/or voting rights and/or the number of securities held by such intermediary on the day before such trading; (d) hedging clients' positions on a basket of securities is permitted provided that either the basket replicates a known index or the bidder's and/or the target company's securities represent less than 10% of the basket; (e) when an intermediary is providing market making services to an exchange traded fund that is composed of a basket of shares including those of the bidder and/or the target company, the intermediary is permitted to acquire the number of shares of the basket necessary to cover the issuance of new fund units; and (f) repo transactions are permitted in order to prevent delivery failure and misuse by the intermediary of the borrowed securities.<sup>3</sup>

Under Book II<sup>4</sup> of the General Rules of the AMF, (1) any person or legal entity that, since the bid was announced by the AMF, has acquired or come into possession, either directly or indirectly, of a quantity of securities representing at least 0.5% of the share capital of the companies concerned shall report their purchases or sales, if any, on a daily basis to the regulator of the market in which the securities are traded; (2) any transaction resulting in the immediate or subsequent transfer of ownership of the securities or voting rights of the companies concerned by the Offer shall also be reported; and (3) any person or legal entity having acquired or come into possession of a number of shares representing more than 5%, 10%, 15%, 20%, 25% or 30% of the share capital or voting rights of the target company must immediately disclose their intentions with respect to the Offer to the markets on which the securities are traded.

In addition to these rules, France's general anti-fraud and anti-manipulation rules also apply to the Offer. In particular, Article 465-1 *et seq.* of the Financial and Monetary Code (*Code monétaire et financier*) and the AMF General Rules prohibit insider dealing in relation to shares of companies traded on regulated markets as well as market manipulation.

## II. Trading Activities

The Financial Advisors and their affiliates and separately identifiable departments ("Affiliates and Departments") offer a full range of banking and securities services to governmental institutions, corporate and other business enterprises and institutional and individual investors around the world. Such services include brokerage, research, trading, corporate finance, capital markets, underwriting, asset management and investment advisory services, including discretionary portfolio management for customers.

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<sup>3</sup> AMF, "The AMF clarifies certain restrictions applicable to financial intermediaries when trading as principal in the course of a takeover bid", Communiqué de presse, April 12, 2006 (available at [http://www.amf-france.org/Styles/Default/documents/general/6602\\_1.pdf](http://www.amf-france.org/Styles/Default/documents/general/6602_1.pdf)).

<sup>4</sup> Article 232.21 *et seq.* of the General Rules of the AMF.

Historically, the Financial Advisors or their Affiliates and Departments may have traded in the Euronext Shares or derivatives related to such securities (including futures, forwards, options, swaps or similar instruments) (collectively, the “Euronext Securities”) on the Exchanges, or otherwise. The Financial Advisors have imposed trading restrictions throughout their global operations to comply with all applicable restrictions. Prior to the imposition of the trading restrictions, the Financial Advisors or their Affiliates and Departments may have engaged in, among other things, the following trading activities in relation to the Euronext Securities (collectively referred to herein as the “Trading Activities”):<sup>5</sup>

- (1) market making activities in the Euronext Securities;
- (2) purchasing and selling the Euronext Securities as part of ordinary course portfolio and asset management activities (in which activities the Affiliates and Departments would generally have discretionary trading authority) and as principal for their own accounts;
- (3) principal facilitation to buy the Euronext Securities to facilitate client orders on the Exchanges;
- (4) creation of derivative products (including futures, forwards, options, swaps or similar instruments) and dynamic hedging and covering activities, short sales and other forms of hedging and covering, such as purchasing and selling the Euronext Securities with respect to positions in these newly created derivatives contracts that are in place after the announcement of the Offer on June 1, 2006, as well as such hedging and covering activities with respect to (a) derivatives contracts in place prior to the announcement and (b) any such trading and positions as would be permitted otherwise pursuant to this relief;
- (5) index arbitrage activities (other than risk arbitrage trading) that are not to facilitate the Offer and are limited in scope, so that such index arbitrage activities are consistent with such activities undertaken in the ordinary course of business prior to commencement of the Offer and which reflect the same balance and constituency as the index being hedged, and hedging and covering activities, including dynamic hedging, short sales and other forms of hedging, such as purchasing and selling Euronext Securities, with respect to such index related activities;
- (6) program trades on behalf of clients (other than Euronext) generally with respect to a basket of securities the composition of which has been proposed by the clients;
- (7) hedging activities, including dynamic hedging and other forms of hedging, such as purchasing and selling the Euronext Securities, with respect to

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<sup>5</sup> Certain activities that are clearly permitted under or exempted from Rule 14e-5 are not discussed below and exemptive relief is not being sought for any such activities.

the market making activities in derivative products described in paragraph (1) above;

- (8) purchasing Euronext Shares for purposes of delivering securities upon exercise of call options or warrants or buying Euronext Securities in respect of the exercise of put options or warrants in connection with the market making and related hedging activities described in paragraphs (1) and (7) above;
- (9) buying Euronext Securities to cover short positions entered into after the announcement of the Offer; and
- (10) purchases of Euronext Securities in a proprietary capacity.<sup>6</sup>

The Financial Advisors seek relief under Rule 14e-5 with respect to purchases or arrangements to purchase Euronext Securities in connection with the Trading Activities by their Affiliates and Departments only to the extent permitted by the AMF and consistent with the General Rules of the AMF and any other applicable rules or regulations. Accordingly, not all of the Trading Activities may be undertaken if this relief is granted: only the subset of the Trading Activities that is permissible under the General Rules of the AMF, the interpretation of which may continue to evolve during the Offer period, will be undertaken if the relief requested herein is granted. Under French law, Trading Activities 1, 3, 5, 6, 7 and 8 would be permitted in France, while some of the other Trading Activities also might be allowed in whole or in part.

Some or all Trading Activities have historically been, and if the requested relief is granted could continue to be, conducted by Affiliates and Departments that are separate from the merger and acquisition/corporate finance departments of the Financial Advisors. The Financial Advisors are not participating in any Trading Activities that are inconsistent with the requirements of Rule 14e-5 in the Euronext Securities on the Exchanges or otherwise. The Financial Advisors now seek exemptive relief from Rule 14e-5 to be permitted to resume purchases or arrangements to purchase the Euronext Securities in connection with the Trading Activities to the extent described above.

### III. Rule 14e-5 Relief

#### A. Background

Rule 14e-5 under the Exchange Act, among other things, prohibits a person making a cash tender offer or exchange offer for an equity security from, directly or indirectly, purchasing or making any arrangement to purchase such security or any security which is immediately convertible into, exchangeable for, or exercisable for such security, other than pursuant to the offer, from the time the offer is publicly announced until its expiration. Rule 14e-5 applies to the offeror and its affiliates, its dealer manager and its affiliates, any advisor to such

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<sup>6</sup> This list of activities is similar to those for which the SEC has previously granted exemptive relief under similar circumstances. *See, e.g.*, the letter regarding the offer by Adecco S.A. for DIS Deutscher Industrie Service AG (January 9, 2006); the letter regarding the offer by Crucell N.V. for Berna Biotech A.G. (January 5, 2006); and the letter regarding Gas Natural SDG S.A.'s proposed acquisition of Endesa S.A. (November 18, 2005).

persons whose compensation is dependent on the completion of the offer and any person acting, directly or indirectly, in concert with any such persons (“Covered Persons”).

Rule 14e-5, as with its predecessor rule, Rule 10b-13, is designed to prevent manipulative and deceptive practices whereby a person making a cash tender or exchange offer purchases (or arranges to purchase) shares otherwise than pursuant to the offer. Among the concerns that Rule 14e-5 is designed to prevent are avoidance of pro-rationing requirements, disparate treatment of persons who tender into the offer and persons who sell securities outside the offer, and holders of large blocks of the subject securities demanding greater or different consideration than that offered pursuant to the tender or exchange offer. None of these concerns are present here.

Rule 14e-5(b) provides certain exceptions to the general rule prohibiting Covered Persons from purchasing or arranging to purchase the subject security outside the terms of the offer. However, the Trading Activities described above are not technically covered by the exceptions to Rule 14e-5 and thus would be prohibited by the rule. Accordingly, the Financial Advisors and their Affiliates and Departments are requesting relief to engage in purchases of or arrangements to purchase the Euronext Securities as related to the enumerated Trading Activities on the conditions set forth below. Without relief, the Financial Advisors would effectively be compelled to stay “out of the market” for a significant period of time due to the restrictions in Rule 14e-5 and, to the extent that the Financial Advisors are not able to make a market in the referenced trading markets, the markets and the Financial Advisors’ clients may be disadvantaged.

B. Rule 14e-5(b)(8)

Rule 14e-5(b)(8) provides an exception for purchases or arrangements to purchase by an “affiliate of the dealer-manager” if (1) the dealer-manager maintains and enforces written policies and procedures reasonably designed to prevent the flow of information to or from the affiliate that might result in a violation of the U.S. federal securities laws and regulations, (2) the dealer-manager is registered as a broker or dealer under Section 15(a) of the Exchange Act, (3) the affiliate has no officers (or persons performing similar functions) or employees (other than clerical, ministerial or support personnel) in common with the dealer-manager that direct, effect or recommend transactions in the securities, and (4) the purchases or arrangements to purchase are not made to facilitate the tender offer.

Rule 14e-5(b)(8) may not, by its terms, apply to the Trading Activities because the Financial Advisors are presently acting as financial advisors to Euronext, are not acting as dealer-managers, and are not U.S. registered broker-dealers.<sup>7</sup> However, each Financial Advisor has a U.S. affiliate that is a U.S. registered broker-dealer. The Financial Advisors believe that because they otherwise meet the conditions in Rule 14e-5(b)(8), they should be permitted to resume the Trading Activities.

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<sup>7</sup> The Financial Advisors may be considered Covered Persons with respect to the Offer because they may be deemed to be acting in concert with the offeror and its affiliates and/or the offeror’s dealer manager and its affiliates in the context of the merger of NYSE Group and Euronext.

Each of the Financial Advisors maintains and enforces written policies and procedures that are reasonably designed to prevent the transfer of information to or from their Affiliates and Departments that might result in a violation of the U.S. federal securities laws through the establishment of information barrier policies and procedures (the "Information Barriers"). These Information Barriers, some of which are also required by Book III of the General Rules of the AMF, are intended to prevent improper motives from influencing the purchasing activity of the Affiliates and Departments and to prevent the flow of confidential information between the trading and advisory arms of each of the Financial Advisors in order to permit unrestricted dealings in securities of clients of the advisory arms. In addition, while none of the Financial Advisors is registered under Section 15(a) of the Exchange Act, UBS Securities LLC, an affiliate of UBS AG, and Morgan Stanley & Co. Inc., an affiliate of Morgan Stanley & Co. Limited, are each so registered and are thus each subject to the high level regulatory and reporting requirements of the U.S. federal securities laws. Consistent with the Information Barriers described above, the personnel in the Affiliates and Departments that direct, effect or recommend transactions in the Euronext Securities would not be the same personnel that are providing financial advisory services to Euronext. Furthermore, the Trading Activities would not be conducted in order to facilitate the Offer.

### C. Local Law Protection and Voluntary Compliance with the U.K. City Code

As discussed above in Section I.D, the Offer will be subject to French laws and regulations following its announcement by the AMF, which will serve to protect the interests of Euronext Shareholders in the Offer. In France, the AMF will be assessing the Offer documentation under the General Rules of the AMF. Moreover, the General Rules of the AMF already offer shareholders involved in a tender offer protections consistent with those in Rule 14e-5, and include a number of the protections required by the Commission in previous relief letters under Rule 10b-13 and 14e-5. For example, such regulations in general provide "best price" protection to tendering shareholders by automatically increasing the offer price if the offeror, or persons acting in concert with it, make market purchases of target shares at a price higher than the offer price. The SEC has previously granted exemptive relief based on similar conditions, including the availability of protections under local laws and regulations. *See, e.g.*, the letter regarding the offer by Adecco S.A. for DIS Deutscher Industrie Service AG (January 9, 2006); the letter regarding the offer by Crucell N.V. for Berna Biotech AG (January 5, 2006); the letter regarding Gas Natural SDG S.A.'s proposed acquisition of Endesa S.A. (November 18, 2005); the letter regarding the offer by Telefónica, S.A. for Telecomunicações de São Paulo S.A., et al. (available February 29, 2000); the letter regarding the offer by Telefónica, S.A. for Telecomunicações de São Paulo S.A., et al. (available February 4, 2000); and the letter regarding the offer by Vodafone AirTouch Public Limited Company for Mannesmann AG (available January 27, 2000).

The United Kingdom's City Code on Takeovers and Mergers (the "City Code") is a U.K. regulatory framework which governs tender offers occurring in the United Kingdom and, similar to the Exchange Act, was established to ensure fair and equal treatment of all shareholders, to provide adequate and timely advice and information, and to prevent the creation of false markets in securities subject to a tender offer. The City Code provides shareholders involved in a tender offer with protections consistent with those in Rule 14e-5. The Commission is very familiar with the

U.K. regulatory regime. In particular, it has included an exemption from Rule 14e-5(a) based on the applicability of the City Code in Rule 14e-5(b)(9), and has granted no-action relief under Rule 14e-5 (or Rule 10b-13) in numerous transactions where the City Code is applicable.<sup>8</sup> Although the Offer is not technically subject to the City Code because Euronext is not incorporated in England, the Financial Advisors will voluntarily comply with the City Code. The SEC has previously granted relief under Rule 14e-5 based on voluntary compliance with the City Code. *See, e.g.*, the letter regarding certain trading activities by UBS AG, London Branch and J.P. Morgan Securities Limited during the issuer tender offer of Dairy Farm International Holdings Limited (available February 21, 2003) (the “2003 UBS Letter”). In the 2003 UBS Letter, the City Code did not apply because the offer in that case was an issuer tender offer and because the issuer was not incorporated in England; the Commission nevertheless granted relief under Rule 14e-5, relying, in part, on representations that during the transaction, UBS would voluntarily comply with the City Code. The SEC has granted no-action relief in other similar situations. *See, e.g.*, the letter regarding the offer by Adecco S.A. for DIS Deutscher Industrie Service AG (January 9, 2006); the letter regarding the offer by Crucell N.V. for Berna Biotech AG (January 5, 2006); the letter regarding Gas Natural SDG S.A.’s proposed acquisition of Endesa S.A. (November 18, 2005); the letter regarding the proposed return of cash by National Grid Transco plc (available June 6, 2005); the letter regarding certain trading activities by J.P. Morgan Securities Limited during the issuer tender offer of Dairy Farm International Holdings Limited (available February 27, 2002); the letter regarding certain trading activities by UBS AG and UBS Warburg during the issuer tender offer of Hongkong Land Holdings Limited (available November 22, 2000); the letter regarding certain trading activities by UBS AG and UBS Warburg during the issuer tender offer of Allied Zurich (available September 13, 2000); the letter regarding certain trading activities by UBS AG and UBS Warburg during the issuer tender offer of Jardine Matheson Holdings Limited (available August 3, 2000); the letter regarding certain trading activities by Credit Suisse First Boston and Cazenove & Co. during the proposed recapitalization of BTR plc (available April 9, 1998); the letter regarding the proposed recapitalization by EMI Group plc (available July 17, 1997); and the letter regarding the proposed recapitalization by Thorn Plc (available June 18, 1997).

In the current transaction, each of the Financial Advisors will conduct itself as if it were a connected exempt principal trader, as defined in the City Code, during the Offer and voluntarily comply with the relevant requirements of the City Code with respect to Trading Activities permitted following the announcement of the Offer, including regulations with respect to the establishment and maintenance of Information Barriers, conflict of interest provisions and other requirements, except that trades will be reported to the AMF, in lieu of the Panel, as required by the General Rules of the AMF. The interests of Euronext Shareholders, which Rule 14e-5 seeks to safeguard, should not be prejudiced by the Trading Activities of the Financial Advisors after the announcement and during the pendency of the Offer. The services provided by the Financial Advisors will be effected in the ordinary course of business, and the Financial Advisors will voluntarily comply

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<sup>8</sup> The Rule 14e-5(b)(9) exemption is partly based on the status of “connected exempt principal trader” under U.K. law. Under U.K. law, there are two requirements for establishing such a status. First, a firm must either be (i) registered with the London Stock Exchange as a market maker or otherwise recognized as such by the Takeover Panel, or (ii) a London Stock Exchange member firm dealing as principal in order book securities. Second, the firm must obtain approval from the U.K. Takeover Panel for exempt status. Before granting exempt status, the Takeover Panel must be satisfied with the internal procedures and controls of the firm (including its information barriers).

with the relevant City Code regulations (other than with respect to the notification of such trades to the Panel) that limit the likelihood that market-making transactions will promote the Offer as well as maintain the Information Barriers described above.

In light of (1) the presence of a comprehensive set of rules and regulations dealing with trading activities under the General Rules of the AMF, (2) the protection under U.K. law, with which the Financial Advisors have voluntarily agreed to comply, against the types of abuses that Rule 14e-5 is designed to prevent, (3) the nature of the Offer, which will be subject to, and conducted pursuant to, the General Rules of the AMF and any other applicable rules or regulations, and (4) the nature of the Euronext Shares, which are listed only on European exchanges, we believe the likelihood of the occurrence of the abuses at which Rule 14e-5 is aimed is remote. The consideration of comity and the policy of promoting U.S. shareholder participation in cross-border transactions also make a compelling case for exemptive relief.

#### IV. Requested Exemptive Relief

Based on the foregoing, we respectfully request that each of the Financial Advisors be granted exemptive relief from the provisions of Rule 14e-5 to the limited extent necessary to permit it to engage in the Trading Activities in the Euronext Securities beginning on the date the Commission may grant relief through the expiration of the Offer, subject to the following conditions:

- (1) All Trading Activities will be conducted outside the United States. No purchases or arrangements to purchase Euronext Securities, otherwise than pursuant to the Offer, will be made directly or indirectly on behalf of NYSE Euronext;
- (2) All purchases of the Euronext Securities by the Financial Advisors through the Affiliates and Departments during the Offer will be effected in the ordinary course of business and in compliance with (a) the General Rules of the AMF applicable to such purchases and any other applicable rules or regulations and (b) to the extent described above, voluntarily with the pertinent provisions of the City Code, and will not be undertaken for the purposes of promoting or otherwise facilitating the Offer, or for the purpose of creating actual, or apparent, active trading in, maintaining, or affecting the prices of the Euronext Securities;
- (3) Each of the Affiliates and Departments that conducts the Trading Activities has no officers (or persons performing similar functions) or employees (other than clerical, ministerial or support personnel), who direct, effect or recommend transactions in the Euronext Securities and who are also involved in providing Euronext, NYSE Group and/or NYSE Euronext with financial advisory services or dealer manager services in the future;
- (4) The formal tender offer documents will disclose the possibility that Affiliates and/or Departments of the Financial Advisors may purchase Euronext Securities outside the Offer;
- (5) The Financial Advisors shall disclose in the United States information regarding such purchases to the extent such information is required to be

- made public in France pursuant to applicable requirements;
- (6) The Financial Advisors will provide to the Division of Market Regulation, upon request, a daily time-sequenced schedule of all transactions in Euronext Securities made by Affiliates and/or Departments of the Financial Advisors during the Offer, on a transaction-by-transaction basis, including:
    - (a) the size, broker (if any), date and time of execution, and price of purchase; and
    - (b) the exchange, quotation system, or other facility through which the purchase occurred;
  - (7) Upon the request of the Division of Market Regulation, each of the Financial Advisors shall transmit the information as specified in paragraph 6 to the Division of Market Regulation at its offices in Washington, D.C. within 30 days of its request;
  - (8) The Financial Advisors shall retain all documents and other information produced pursuant to this exemption for a period of not less than two years from the date of the termination of the Offer;
  - (9) Representatives of each of the Financial Advisors shall be made available (in person at the office of the Division of Market Regulation or by telephone) to respond to inquiries of the Division of Market Regulation relating to their records; and
  - (10) Except as otherwise exempted herein, the Financial Advisors shall comply with Rule 14e-5 during the Offer.

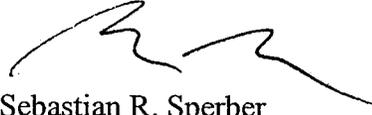
The Financial Advisors have informed us that the majority of trading in Euronext Securities currently takes place on Euronext Paris, but Euronext Shares also trade in the OTC markets.

## V. Conclusion

As financial advisors to Euronext in connection with the Offer, each of the Financial Advisors has found itself in the position where it will be prohibited from engaging in the Trading Activities during the Offer. To the extent that the Financial Advisors are not able to make a market in the Euronext Securities on the Exchanges or otherwise, the markets and the Financial Advisors' clients may be disadvantaged. In light of the exemptive relief that the SEC has previously granted in similar circumstances, the Financial Advisors believe that relief is appropriate. Therefore, the Financial Advisors are requesting exemptive relief from Rule 14e-5 in order to allow their Affiliates and Departments to engage in the purchases and arrangements to purchase described in the Trading Activities enumerated above beginning on the date the SEC grants relief through the expiration of the Offer.

If you need any further information or wish to discuss the foregoing matters, please do not hesitate to contact me in London on +44-20-7614-2237.

Sincerely,

A handwritten signature in black ink, consisting of a series of fluid, connected strokes that form a stylized representation of the name Sebastian R. Sperber.

Sebastian R. Sperber