

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59140; File No. SR-NYSE-2008-130)

December 22, 2008

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC to Establish a Trading License Fee for 2009 and Amend Certain Other Floor Fees

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 18, 2008, New York Stock Exchange LLC (the “NYSE” 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: (i) amend Exchange Rule 300 (Trading Licenses) to provide that the fee for trading licenses will be set forth on the Exchange’s Price List rather than in Rule 300; (ii) amend Rule 300 to provide that trading licenses purchased following the annual offering will be sold for a pro rated portion of the annual fee, rather than at a premium to the annual price; (iii) establish a trading license fee for 2009 of \$40,000; (iv) reduce from \$5,000 to \$1,000 the fee related to the approval of a pre-qualified substitute employee; and (v) eliminate the \$1,000 clerk badge fee. The text of the proposed rule change is available on the Exchange's Web site

(<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 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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

Exchange Rule 300(b) sets forth the fee payable by member organizations buying trading licenses in the annual offering. The Exchange proposes to amend Rule 300(b) to provide that the trading license fee for each year will not be set forth in the rule itself but will rather be established each year by way of an amendment to the Exchange's price list submitted to the Commission as a rule filing under Rule 19b-4.⁴ This is consistent with the Exchange's general approach to fees applicable to member organizations, which are typically set forth in the Exchange's price list but not included in the Exchange rules. Rule 300(d) provides that member organizations buying trading licenses after the start of the applicable calendar year are charged \$44,000 (a 10% premium over the 2008 trading license fee of \$40,000), pro rated to reflect the amount of time left in the year. The Exchange proposes to amend Rule 300(d) to provide that additional trading licenses purchased after the annual offering will be sold at the same price as licenses purchased in the annual offering, pro rated to reflect the amount of time remaining in the year. The Exchange proposes to maintain the trading license fee at \$40,000 for calendar 2009.

⁴ 17 CFR 240.19b-4.

The Exchange currently charges a \$5,000 fee with respect to the approval of a pre-qualified substitute employee.⁵ This fee is billed to the member organization which is the new employer of (i) any new member or pre-qualified substitute not transferring from another member organization, (ii) any approved member who changes employment and continues as a member with that member organization, or (iii) any pre-qualified substitute who changes employment and continues as a pre-qualified substitute with that member organization. The Exchange proposes to reduce this fee from \$5,000 to \$1,000 commencing January 1, 2009.

The Exchange currently charges member organizations a \$1,000 badge fee for each clerk working on the trading floor. The Exchange proposes to eliminate this fee with effect from January 1, 2009.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6⁶ of the Act in general and furthers the objectives of Section 6(b)(4)⁷ in particular, in that it is designed provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of dues, fees and other charges as it provides the DMMs appropriate incentives to act as liquidity providers and supports them in performing their central function in the Exchange's market model.

⁵ A pre-qualified substitute employee is an employee of a member organization who has been approved to work on the Exchange trading floor and can be assigned to work on the trading floor at anytime that the member organization has a trading license available for use.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

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

Written comments were neither solicited nor received.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)⁸ of the Act and Rule 19b-4(f)(2)⁹ thereunder.

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-NYSE-2008-130 on the subject line.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(2).

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-2008-130. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. 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-2008-130 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
Acting Secretary

¹⁰ 17 CFR 200.30-3(a)(12).