

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58833; File No. SR-NYSE-2008-106)

October 22, 2008

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Eliminate Subscribership to NYSE Bonds and Provide That All NYSE Members and Member Organizations Are Eligible to Access NYSE Bonds

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 October 17, 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 NYSE Rule 86 as part of the relocation of the trading of certain debt securities (“Bonds Relocation”) conducted on NYSE Alternext US LLC’s (“NYSE Alternext”) legacy trading systems to an automated trading platform based on NYSE BondsSM that will be operated by the Exchange on behalf of NYSE Alternext (“NYSE Alternext Bonds”). The text of the proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the Exchange’s principal office, and at the Public Reference Room of the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 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 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

This proposal is to amend NYSE Rule 86 as part of the Bonds Relocation.

Background

As described more fully in a related rule filing, the Exchange's parent company, 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 American Stock Exchange LLC ("Amex"), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext US LLC³, and will continue to operate as a national securities exchange registered under Section 6 of the Act.⁴ The effective date of the Merger was October 1, 2008.

³ 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). As noted, Amex was renamed NYSE Alternext US LLC and will be referred to as NYSE Alternext for all purposes throughout this filing. For the avoidance of doubt, NYSE Alternext US LLC is a self regulatory organization distinct from NYSE Euronext's European-market subsidiary, NYSE Alternext.

⁴ 15 U.S.C. 78f.

In connection with the Merger, NYSE Alternext will relocate all equities trading conducted on the NYSE Alternext legacy trading systems and facilities located at 86 Trinity Place, New York, New York (the “86 Trinity Trading Systems”), to trading systems and facilities located at 11 Wall Street, New York, New York (the “Equities Relocation”). The NYSE Alternext equity trading systems and facilities at 11 Wall Street (the “NYSE Alternext Trading Systems”) will be operated by the Exchange on behalf of NYSE Alternext. Similarly, NYSE Alternext will relocate all options trading currently conducted on the 86 Trinity Trading Systems to new facilities to be located at 11 Wall Street, which will use a trading system based on the options trading system used by NYSE Arca, Inc. (“NYSE Arca”) (the “Options Relocation”).⁵

Post-Merger, all NYSE Alternext members and member organizations that were authorized to trade on NYSE Alternext before the Merger will receive trading permits (referred to as “86 Trinity Permits”) that authorize continued trading on the 86 Trinity Trading Systems. Holders of the 86 Trinity Permits are eligible to apply for an NYSE Alternext equities trading license or options trading permit upon the Equities or Options Relocation, as applicable.⁶ In addition, pursuant to the Merger, all NYSE Alternext members and member organizations that apply for an NYSE Alternext equities trading license are automatically waived in as NYSE

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

⁶ See Securities Exchange Act Release No. 58706 (October 1, 2008), 73 FR 59019 (October 8, 2008) (SR-NYSE-2008-70) (describing and approving membership rule changes related to the Merger); Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex 2008-63) (approving the Equities Relocation).

members and member organizations.⁷ Similarly, all NYSE members and member organizations are automatically waived in as NYSE Alternext members and member organizations.⁸

Current NYSE Rule 86 and NYSE Bonds Trading Platform

The NYSE Bonds trading platform processes all bonds trading (including convertible bonds and certain structured products) at the Exchange, including receipt, execution and reporting of transactions.⁹

NYSE Rule 86 prescribes how NYSE Bonds operates, who may use the platform, and how it is regulated.¹⁰ In relevant part, NYSE Rule 86(b)(2)(I) provides that all NYSE member organizations are eligible to subscribe to trade on NYSE Bonds. A member organization becomes a “Subscriber” to NYSE Bonds upon entering into a subscription and service and access agreement with the Exchange. A Subscriber to NYSE Bonds may enter orders for themselves or their customer.

In addition, NYSE Rule 86 provides a mechanism for handling clearly erroneous executions and for when trading may be halted or suspended, and has provisions governing

⁷ See NYSE Rules 2.10 and 2.20. NYSE Alternext members and member organizations will have a six-month grace period within which to meet NYSE and NYSE Alternext Equities membership requirements. If a member or member organization fails to meet those requirements by the close of the grace period, both NYSE and NYSE Alternext will revoke trading approvals on their respective exchanges. See NYSE Rule 300.10T and NYSE Alternext Equities Rule 300.10T. See also Securities Exchange Act Release No. 58706 (October 1, 2008), 73 FR 59019 (October 8, 2008) (SR-NYSE-2008-70); Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex 2008-63).

⁸ See NYSE Alternext Equities Rules 2.10 and .20. See also Securities Exchange Act Release No. 58706 (October 1, 2008), 73 FR 59019 (October 8, 2008) (SR-NYSE-2008-70); Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex 2008-63).

⁹ See NYSE Rules 86(a) and (g).

¹⁰ See NYSE Rules 86(b) – (l), (p).

sponsored access.¹¹ In particular, NYSE Rule 86(o) provides, subject to certain requirements and restrictions, that non-members may be granted sponsored access to NYSE Bonds as “Sponsored Participants”. A non-member may become a Sponsored Participant so long as the non-member is authorized to do so by the Exchange and enters into a written agreement with both the Exchange and its Sponsoring Member Organization.

All securities traded on NYSE Bonds are designated upon execution with an “N” indicator for “listed” debt securities or a “U” indicator for “traded” debt securities. In addition, all bond directory pages on the NYSE Bonds website identify securities as either “listed” or “traded”.¹²

The Bonds Relocation

Similar to the Equities and Options Relocations, NYSE Alternext is now proposing the Bonds Relocation.¹³

The debt securities involved in the Bonds Relocation will be traded on NYSE Alternext Bonds and NYSE Alternext will maintain the listings of these securities in accordance with its listing standards. The Exchange will not cross-list any NYSE Alternext-listed securities on the

¹¹ See NYSE Rules 86(m) – (o).

¹² On NYSE Bonds, "listed" refers to registered (or exempt) debt securities that have been listed with the Exchange by the issuer, subject to the applicable initial and continued listing approvals and criteria. "Traded" refers to unregistered debt securities that are admitted to trading on NYSE Bonds without requiring the issuer to have listed those securities on the Exchange. See Securities Exchange Act Release No. 54766 (November 16, 2006), 71 FR 67657 (November 22, 2006) (S7-06-05) (SEC exemption for the trading of certain unregistered and unlisted securities). See also NYSE Rules 1400-1401.

¹³ In the filing governing the Equities Relocation, NYSE Alternext noted that it expected to delist certain debt securities and that those securities would subsequently be listed and traded on NYSE Bonds. See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex 2008-63). In the interim period since that filing was submitted to the Commission, NYSE Alternext determined that it will retain the listing of these debt securities while adopting and using the advanced technology of NYSE Alternext Bonds to trade them. See SR-NYSEALTR-2008-03.

Exchange and will not cross-list any Exchange-listed securities on NYSE Alternext. The Exchange does not currently trade any debt securities listed on other exchanges on a UTP basis, and neither the Exchange nor NYSE Alternext will trade debt securities listed on their respective exchanges on a UTP basis.

The Exchange understands that the Bonds Relocation will occur as soon as reasonably practicable following the date of the Merger, concurrent with the Equities Relocation.¹⁴

Proposed Amendments to NYSE Rule 86

The Exchange proposes the following amendments to NYSE Rule 86 in order to facilitate the Bonds Relocation and to permit both NYSE and NYSE Alternext members and member organizations to access NYSE Bonds.¹⁵

The Exchange proposes to modify subparagraph (b)(2)(I) to remove the subscription requirement from Rule 86. At the time the Exchange first adopted Rule 86 and implemented the NYSE Bonds platform, it required NYSE members and member organizations to complete a subscription and service and access agreement. The Exchange now believes that continuing to require members and member organizations to separately “subscribe” to NYSE Bonds and complete the related documentation is inefficient, impractical, and does not provide any additional benefit to the Exchange or to investors. All of the requirements contained in the subscription and service and access agreement relating to compliance with legal and regulatory obligations are governed by the rules of the Exchange. By eliminating the subscription requirement, the Exchange believes it will help to streamline the process for members and

¹⁴ In order to implement the Bonds Relocation, NYSE Alternext is proposing to adopt NYSE Rule 86 as NYSE Alternext Equities Rule 86, and to adopt or make conforming amendments to other NYSE Alternext Equities Rules. See SR-NYSEALTR-2008-03.

¹⁵ The Commission approved NYSE Rule 86 in March 2007 after full notice and comment. See Securities Exchange Act Release No. 55496 (March 20, 2007), 72 FR 14631 (March 28, 2007) (SR-NYSE-2006-37) (approving NYSE Bonds).

member organizations to access NYSE Bonds without compromising the integrity of the regulatory process.

Correspondingly, the Exchange also proposes to substitute the references to “Subscribers” in subparagraphs (b)(2)(J), (b)(2)(M), (m)(4) and (o) of NYSE Rule 86 with “Members and Member Organizations”, which would permit all NYSE members and member organizations to be automatically eligible to access NYSE Bonds without any additional requirements.¹⁶ Also, as described above, post-Merger all NYSE Alternext members and member organizations that apply for an NYSE Alternext equities trading permit will be automatically waived in as members and member organizations of the Exchange. Thus, by providing in subparagraph (o) that all Exchange members and member organizations will be eligible to access NYSE Bonds, both NYSE and NYSE Alternext members and member organizations will be able to trade on NYSE Bonds.

By removing the subscription requirement and providing that all NYSE members and member organizations are eligible to access NYSE Bonds without any additional requirements, the Exchange hopes to maximize participation, increase liquidity and improve pricing, which benefits all market participants.

In addition, the Exchange will modify the NYSE Bonds website to reflect which securities are listed with NYSE and which securities are listed with NYSE Alternext. Executions of NYSE Alternext-listed securities will be designated with an “A” indicator.

Operative Date

¹⁶ See proposed NYSE Rule 86(o) in Exhibit 5. The Exchange also proposes to substitute the reference to “Subscriber” in subparagraph (b)(2)(L) with “Sponsoring Member Organization”.

The Exchange proposes that the operative date of the proposed rule changes be the date of the Equities and Bonds Relocations.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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 proposed rule change also supports the principles of Section 11A(a)(1)¹⁹ of the Act in that it seeks to ensure economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets.

The Exchange believes that the proposed amendments to NYSE Rule 86 will enhance the efficient execution of transactions and fair competition among broker-dealers and markets and provide increased bond market activity for the benefit of all market participants.

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 solicited or received with respect to the proposed rule change.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ 15 U.S.C. 78k-1(a)(1).

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

The Exchange believes that this proposal qualifies for immediate effectiveness upon filing as a non-controversial rule change pursuant to Section 19(b)(3)(A) of the Act²⁰ and Rule 19b-4(f)(6)²¹ thereunder. The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest.²² This filing is non-controversial because it raises no novel issues and is simply streamlining members' and member organizations' access to NYSE Bonds, as all of the requirements contained in the subscription and service and access agreement relating to compliance with legal and regulatory obligations are already and will continue to be governed by the rules of the Exchange. The proposed rule change will not become operative until the date of the Equities and Bonds Relocations.

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:

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 CFR 240.19b-4(f)(6).

²² 17 CFR 240.19b-4(f)(6). 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, 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. NYSE complied with this requirement.

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-2008-106 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-2008-106. 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 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-2008-106 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.²³

Florence E. Harmon
Acting Secretary

²³ 17 CFR 200.30-3(a)(12).