

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-59454; File No. SR-NYSEALTR-2009-17)

February 25, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of  
Proposed Rule Change by NYSE Alternext US LLC to Delete Certain Rules Governing  
the Trading of Listed Options

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 February 23, 2009, NYSE Alternext US LLC (the “Exchange” or “NYSE Alternext”) 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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 delete old rules governing the trading of listed options which are being replaced by rules identified in a separate filing, SR-NYSEALTR-2008-14, which proposes new Section 900NY. The old rules will no longer apply upon a) the implementation of a new trading platform for options, NYSE Amex System (“System”) and b) relocation of the Trading Floor to 11 Wall Street, New York, NY. The text of the

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

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

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

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

proposed rule change 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.

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

1. Purpose

In a separate filing, SR-NYSEALTR-2008-14, the Exchange has proposed rules to introduce a modern electronic trading platform to support options trading, and in addition, proposes to update and reorganize open outcry trading at the time of the migration to the new platform and the move to a new Options Trading Floor at 11 Wall Street, New York, NY. The new rule set is proposed as Section 900NY.

Rule Section 900NY will replace certain existing NYSE Alternext Rules. These are, under General Rules, Rule 1, Hours of Business; Rule 2, Visitors; Rule 21, Appointment of the Senior Supervisory Officer, Senior Floor Officials, Exchange Officials and Floor Officials; Rule 21, Authority of Floor Officials; Rule 27A, Allocation of Options; Rule 170, Registration and Functions of Specialists; Rule 171,

Specialist Financial Requirements; Rule 172, Relief and Temporary Specialists; Rule 173, Relief and Temporary Specialist Financial Requirements; Rule 174, Disclosures by Specialists Prohibited; Rule 175, Specialist Prohibitions. Under Trading of Options Contracts, the superseded Rules are, in Section 1, Rule 900, Applicability Definitions and References; in Section 2, Rule 918, Trading Rotations, Halts, and Suspensions; in Section 3, Rule 933, Automatic Execution of Options Orders; Rule 934, Limitation on Orders; Rule 936, Cancellation and Adjustment of Equity Options Transactions; in Section 4, Rule 941, Operation of the Linkage; Rule 942, Order Protection; Rule 943, Locked Markets; Rule 944, Limitation on Principal Order Access.

Additionally, Section 900NY will replace, in Section 5 - Floor Rules Applicable to Options, Rule 950, Rules of General Applicability; Rule 951, Premium Bids and Offers; Rule 952, Minimum Price Variations; Rule 953, Acceptance of Bid or Offer; Rule 954, Units of Trading; Rule 955, Floor Reports of Exchange Options Transactions; Rule 956, Open Orders on "Ex Date"; Rule 957, Accounts, Orders and Records of Registered Traders, Designated NYSE Alternext Remote Traders, Specialists and Associated Persons; Rule 958, Options Transactions of Registered Traders; Rule 958A, Application of the Firm Quote Rule, Rule 959, Accommodation Transactions; in Section 9, Rule 992, Exchange Options Market Data System; in Section 11 - Stock Index Options, Rule 918C, Trading Rotations, Halts and Suspensions; and in ANTE Rules, all Rules (Rule 900 – ANTE through Rule 997-ANTE).

This filing seeks to remove these replaced Rules from the NYSE Alternext US LLC Rulebook upon implementation of the new NYSE Amex Options trading system and the opening of the new Trading Floor at 11 Wall Street.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>5</sup> of the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b)(5)<sup>6</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

### 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.

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

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

(iii) 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

The Exchange has requested that the Commission waive the 30-day operative delay to the extent that such action is necessary to make the proposed rule change operative upon implementation of the new NYSE Amex Options trading system and the opening of the new Options Trading Floor at 11 Wall Street.<sup>9</sup> The Commission hereby grants the Exchange's request and believes that such action is consistent with the protection of investors and the public interest.<sup>10</sup> If the Commission approves SR-NYSEALTR-2008-14, it will be necessary for this proposed rule change to become operative simultaneously with the operative date of the new rules proposed in SR-NYSEALTR-2008-14. Otherwise, the Exchange would have conflicting rules on its books. Therefore, the Commission waives any part of the 30-day period in connection with this filing that is necessary to make the two filings operative simultaneously. The

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to 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. The Exchange has satisfied this requirement.

<sup>9</sup> The implementation of the new trading system and opening of the new Options Trading Floor are currently scheduled for March 2, 2009, pending approval of SR-NYSEALTR-2008-14.

<sup>10</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission notes, however, that its action in this matter is without prejudice to any action it may take with respect to SR-NYSEALTR-2008-14.

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-2009-17 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-2009-17. 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 such 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-2009-17 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.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).