

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 a.m. and 3 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-2008-143 and should be submitted on or before February 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59233; File No. SR-NYSEALTR-2008-21]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Alternext US LLC Amending NYSE Alternext Equities Rule 103B To Conform to Amendments Filed by the New York Stock Exchange To: (1) Prohibit DMM Units From Communicating With Issuers After Receipt of Notice From the Exchange of the Issuer's Impending Listing; and (2) Provide DMM Unit Marketing Materials to the Issuer Prior to the Scheduled Interview Rather Than the Day Before

January 12, 2009.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder, <sup>3</sup> notice is hereby given that on December 31, 2008, NYSE Alternext US LLC (the "Exchange" or "NYSE Alternext") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II 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 amend NYSE Alternext Equities Rule 103B ("Security Allocation and Reallocation") to conform to amendments filed by the New York Stock Exchange to: (1) Prohibit DMM units from communicating with issuers after receipt of notice from the Exchange of the issuer's impending listing; and (2) provide DMM unit marketing materials to the issuer prior to the scheduled interview rather than the day before.

The text of the 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend NYSE Alternext Equities Rule 103B ("Security Allocation and Reallocation") to conform with amendments filed by the New York Stock Exchange <sup>4</sup> to: (1) Prohibit DMM units from communicating with issuers after receipt of notice from the Exchange of the issuer's impending listing; and (2) provide DMM unit marketing materials to the issuer prior to the scheduled interview rather than the day before.

###### I. Background

As described more fully in a related rule filing, <sup>5</sup> 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 Exchange's predecessor, the American Stock Exchange LLC ("Amex"), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext US LLC, and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the "Act"). <sup>6</sup> The effective date of the Merger was October 1, 2008.

In connection with the Merger, on December 1, 2008, the Exchange relocated all equities trading conducted on the Exchange legacy trading systems and facilities located at 86 Trinity Place, New York, New York, to trading systems and facilities located at 11 Wall Street, New York, New York (the "Equities Relocation"). The Exchange's equity trading systems and facilities at 11 Wall Street (the "NYSE Alternext Trading Systems") are operated by the NYSE on behalf of the Exchange. <sup>7</sup>

As part of the Equities Relocation, NYSE Alternext adopted NYSE Rules 1-1004, subject to such changes as necessary to apply the Rules to the Exchange, as the NYSE Alternext Equities Rules to govern trading on the NYSE Alternext Trading Systems. <sup>8</sup> The NYSE Alternext Equities Rules, which became operative on December 1, 2008, are substantially identical to the current NYSE Rules 1-1004 and the Exchange continues to update the NYSE Alternext Equities Rules as necessary to conform with rule changes to corresponding NYSE Rules filed by the NYSE.

###### II. Proposed Amendments

The Exchange proposes to amend Section III (A) of NYSE Alternext Equities Rule 103B to prohibit DMM units from having contact with an issuer after the Exchange provides notice to DMM units about the issuer's impending listing on the Exchange.

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex 2008-63) (approving the Equities Relocation).

<sup>8</sup> See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex 2008-63) (approving the Equities Relocation); Securities Exchange Act Release No. 58833 (October 22, 2008), 73 FR 64642 (October 30, 2008) (SR-NYSE-2008-106) and Securities Exchange Act Release No. 58839 (October 23, 2008), 73 FR 64645 (October 30, 2008) (SR-NYSEALTR-2008-03) (together, approving the Bonds Relocation); Securities Exchange Act Release No. 59022 (November 26, 2008), 73 FR 73683 (December 3, 2008) (SR-NYSEALTR-2008-10) (adopting amendments to NYSE Alternext Equities Rules to track changes to corresponding NYSE Rules); Securities Exchange Act Release No. 59027 (November 28, 2008), 73 FR 73681 (December 3, 2008) (SR-NYSEALTR-2008-11) (adopting amendments to Rule 62—NYSE Alternext Equities to track changes to corresponding NYSE Rule 62).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 59231 (January 12, 2009) (SR-NYSE-2008-143).

<sup>5</sup> 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).

Currently NYSE Alternext Equities Rule 103B prohibits communication between DMM units and issuers following their interview. The Exchange believes that prohibiting communication between DMM units and issuers just prior to the interview is appropriate in order to promote fairness and objectivity in the interview process. The Exchange therefore proposes to amend NYSE Alternext Equities Rule 103B, Section III to add a section prohibiting DMM units, or any individuals acting on their behalf, from having any contact with any listing company once the Exchange provides written notice to the DMM units that the listing company is listing on the Exchange.

In addition to the above modification related to the interview process, the Exchange further seeks to allow more flexibility in the delivery of DMM marketing materials to an issuer based on the availability of the issuer. Currently, the rule provides that DMM marketing materials are to be provided the day before the interview. The Exchange proposes to amend the language to allow for the marketing materials to be provided prior to the interview. Some issuers that interview at the Exchange may be in transit the day prior to the interview or participating in road shows and business trips and are therefore unavailable to receive the materials the day before the scheduled interview. In those instances the Exchange provides the issuer with the materials the day of the interview. In instances where an issuer is available to receive the marketing materials in advance of the scheduled interview the Exchange would like to be able to provide the materials to the issuer. Accordingly, the Exchange proposes to amend the rule to simply state that the Exchange will provide the issuer with the DMM units' marketing materials prior to the interview.

The Exchange proposes these amendments to conform the allocation process of NYSE Alternext to the allocation process of its affiliated Exchange, the New York Stock Exchange LLC.

## 2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5),<sup>9</sup> which requires that an exchange have rules that are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and

facilitating transactions in securities, 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 amendments are consistent with these objectives. The amendments sought herein seek to alleviate impediments in the administrative process of assigning securities to DMM units which ultimately facilitates the fair and orderly trading in the subject security.

### *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 proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the 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 Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

The Exchange has requested that the Commission waive the 30-day operative delay in this case. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will immediately establish the specific point in time when DMM units must cease communication with issuers prior to interviews. In addition, this proposed rule change is substantially similar to an

NYSE proposal.<sup>12</sup> For these reasons, the Commission designates that the proposed rule change become operative immediately upon filing.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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-2008-21 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-2008-21. 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 a.m. and 3 p.m. Copies of the filing also will be available for

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required 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. The Exchange has satisfied this requirement.

<sup>12</sup> See *supra* note 4.

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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-2008-21 and should be submitted on or before February 6, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-930 Filed 1-15-09; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2008-0054]

### Privacy Act of 1974, as Amended; Computer Matching Program (SSA/ Department of the Treasury, Bureau of the Public Debt (BPD))—Match Number 1038

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of the renewal of an existing computer matching program which is scheduled to expire on December 25, 2008.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, we are announcing the renewal of an existing computer matching program we are currently conducting with BPD.

**DATES:** We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefaxing to (410) 965-0201 or writing to the Deputy Commissioner for Budget, Finance and Management, 800 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Deputy Commissioner for Budget, Finance and Management as shown above.

#### SUPPLEMENTARY INFORMATION:

#### A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

- (1) Negotiate written agreements with the other agency or agencies participating in the matching programs;
- (2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;
- (3) Publish notice of the computer matching program in the **Federal Register**;
- (4) Furnish detailed reports about matching programs to Congress and OMB;
- (5) Notify applicants and beneficiaries that their records are subject to matching; and
- (6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

#### B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: December 4, 2008.

**Mary Glenn-Croft,**

*Deputy Commissioner for Budget, Finance and Management.*

### Notice of Computer Matching Program, Social Security Administration (SSA) With the Bureau of the Public Debt (BPD)

#### A. Participating Agencies

SSA and BPD.

#### B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions, safeguards and procedures for BPD's disclosure of certain savings security information to SSA. (The term "savings security" means Series E, EE or I United States

Savings Securities.) This disclosure will provide SSA with information necessary to verify eligibility and payment amounts of individuals under the Supplemental Security Income (SSI) program. The SSI program was created under title XVI of the Social Security Act (the Act) to provide benefits under the rules of that title to individuals with income and resources below levels established by law and regulations.

#### C. Authority for Conducting the Matching Program

Sections 1631(e)(1)(B) and (f) of the Act (42 U.S.C. 1383(e)(1)(B) and (f)).

#### D. Categories of Records and Individuals Covered by the Matching Program

We will provide BPD with a finder file extracted from SSA's Supplemental Security Income Record and Special Veterans Benefits system of records (SSA 60-0103 full text last published in the **Federal Register** on January 11, 2006 at 71 FR 1795, 1830), containing Social Security numbers of persons who have applied for, or receive, SSI payments. This information will be matched with BPD files in BPD's savings-type securities registration systems of records (United States Savings Type Securities and Retail Treasury Securities Access Application) and a reply file of matched records will be furnished to SSA. These records are included under the systems of records Treasury/BPD.002, United States Savings Type Securities, and Treasury/BPD.008, Retail Treasury Securities Access Application, last published in the **Federal Register** on July 23, 2008 at 73 FR 42906 and 42918, respectively. Upon receipt of BPD's reply file, we will match identifying information from the BPD file with SSA's records to determine preliminarily whether the data pertain to the relevant SSI applicant or recipient before beginning the process of verifying savings security ownership and taking any necessary benefit actions.

#### E. Inclusive Dates of the Matching Program

The matching program will become effective upon signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the

<sup>14</sup> 17 CFR 200.30-3(a)(12).