

(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to Lewis W. Walker, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: October 1, 2008.

**Florence E. Harmon,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58712; File No. SR-Amex-2008-73]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to the Amex Price List After the Acquisition of NYSE Euronext

October 2, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 29, 2008, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange 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

In connection with its pending acquisition by NYSE Euronext—the parent company of the New York Stock Exchange LLC ("NYSE") and NYSE Arca—the American Stock Exchange LLC ("Amex" or "Exchange") is seeking to revise the Amex Price List that will be put in effect after the acquisition closes.

The text of the proposed rule change is available on the Amex's Web site at

<http://www.amex.com>, the Office of the Secretary, the Amex 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Background

Pursuant to an agreement dated January 17, 2008, the Amex is being acquired by NYSE Euronext—the parent company of the NYSE and NYSE Arca—through a series of mergers as described in SR-Amex-2008-62 (the "Transaction").<sup>3</sup> Following completion of the Transaction, Amex will become one of the U.S. Regulated Subsidiaries<sup>4</sup> of NYSE Euronext and will continue to engage in the business of operating a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the "Act").<sup>5</sup> Following the Transaction, the name of the new exchange will be NYSE Alternext US LLC. NYSE Alternext US will continue to operate a marketplace for the listing and trading of equities, options, bonds and for a limited period of time Exchange Traded Fund shares ("ETFs") and certain structured products. It is anticipated that after a period of transition during which these products will continue to trade on Amex legacy trading systems and facilities, the trading of these products will be relocated to trading systems and facilities operated by NYSE or NYSE Arca on behalf of NYSE Alternext US.<sup>6</sup>

<sup>3</sup> Securities Exchange Act Release No. 58284 (August 1, 2008), 73 FR 46086 (August 7, 2008) Notice of Filing of Proposed Rule Change SR-Amex 2008-62.

<sup>4</sup> The term "U.S. Regulated Subsidiary" is defined under Article VII, Section 7.3(G) of the Bylaws of NYSE Euronext.

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

<sup>6</sup> For more information regarding the relocation of equity products see Securities Exchange Act Release No. 58265 (July 30, 2008) 73 FR 46075

The substantive changes to the Amex Price List proposed herein will be in effect during the transition period, beginning with the first complete billable month after the completion of the Transaction through to the relocation of the trading of each of the product lines. The non-substantive changes such as changes to the name of the Exchange and elimination of references to seat owners and memberships will take place immediately after the Transaction closes.

During the transition period NYSE Alternext US intends to make available to persons and entities that apply and meet certain requirements a temporary trading permit (to be known as an "86 Trinity Permit") to allow holders to trade products currently traded on the Exchange prior to the relocation of the trading of the products as described above.<sup>7</sup> To ensure continuity following the Transaction, persons and entities that were authorized to trade on the Exchange immediately prior to the Transaction, will be deemed to have satisfied applicable requirements necessary to receive an 86 Trinity Permit. Any person or organization seeking access to the Exchange during the transition period will need to obtain an 86 Trinity Permit.

###### Description of Changes to the Price List

In addition to changing the name of the Amex Price List to the NYSE Alternext U.S. Price List and revisions to references related to seat owner and memberships to reflect the issuance of 86 Trinity Permits, the Exchange proposes to make the following changes:

1. The following floor fees will be waived for holders of 86 Trinity Permits during the transition period beginning with the first complete billable month after the Transaction closes (referred to hereinafter as the "Operative Date"). For example, if the Transaction closes in September, floor fees will be waived beginning in October. Floor fees include Floor Clerk Fee, Floor Facility Fee, Floor Wire Privilege Fee, Post Fee per Podium Fee, Specialist Registration Fee and the Technology Fee.

2. The Cable TV fee will be increased from \$360 per year to \$420 per year to reflect an increase in the cost of this service to the Exchange; this fee

(August 7, 2008) Notice of Filing of Proposed Rule Change SR-Amex 2008-63. In addition, the Exchange will submit separate rule filings regarding the relocation of options, bonds, ETFs and structured products in the near future.

<sup>7</sup> For a further description of 86 Trinity Permit Holders see Securities Exchange Act Release No. 58284 (August 1, 2008) 73 FR 46086 (August 7, 2008) Notice of Filing of Proposed Rule Change SR-Amex 2008-62.

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

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

increase will go into effect on the Operative Date. In addition the Price List will be revised to include the monthly rate charged for services that are billed on a monthly rather than annual basis. Reference to the Membership Certificate fee of \$20.00 will be eliminated since the Exchange will no longer issue such certificates.

3. The Price List section on Booth Rental and Order Pads is revised and updated to eliminate the references to (i) Order Pads since there is no fee indicated for order pads in that section; and (ii) the Booth Rental fees no longer in effect.

4. The Price List section on Members Fees is revised to (i) change the name of the section to 86 Trinity Permit Holder Fees; (ii) eliminate Membership Dues; (iii) eliminate Initiation Fees, except for the Application Processing Fee and the \$45 fee for use of the Exchange's in-house fingerprinting service; (iv) change the name of the subsection Membership Fees to 86 Trinity Permit Holder Fees and waive the Limited Trading Permits ("LTP") fee for those LTP holders who become 86 Trinity Permit Holders after the Transaction closes<sup>8</sup> The LTP Fee is billed at the beginning of each quarter, therefore, if the Transaction closes in the middle of a quarter, waiver of the fee will be effective at the beginning of the next quarter and will not be applied retroactively; (v) eliminate the Qualifying Maintenance fee charged to Interim Members; and (vi) eliminate obsolete notes.

5. The Price List section on Registration and IDC Fees is being revised to replace NASD with FINRA.

References throughout the Price List to Amex or ASE will be revised to NYSE Alternext U.S. or Exchange where appropriate.

## (2) Statutory Basis

The Exchange believes that the proposed fee change is consistent with Section 6(b)(4) of the 1934 Act<sup>9</sup> regarding the equitable allocation of reasonable dues, fees and other charges among exchange members and other persons using exchange facilities. In particular the Exchange is revising its Price List to be in effect during the transition period after the closing of its Transaction with NYSE Euronext. Most of the fees currently in place on the

Amex will remain in effect after the closing of the Transaction and throughout the transition period, however, certain member fees are being waived for the transition period to help off-set costs it is anticipated members will incur when transitioning their operations to NYSE Alternext's new trading facilities.

## B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 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

The foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</sup> thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary of appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Securities Exchange Act of 1934.

## 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-Amex-2008-73 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.

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

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-Amex-2008-73. 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 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-Amex-2008-73 and should be submitted on or before October 30, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58718; File No. SR-CBOE-2008-102]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Change the Permissible Exercise Price and Premium Calculations for FLEX Equity Options

October 2, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on

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

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

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

<sup>8</sup> As discussed in proposed rule change SR-Amex 2008-62, during the transition period physical and electronic access to NYSE Alternext US's trading facilities will only be made available to individuals that obtain an 86 Trinity Permit, thus the access a LTP holder had prior to the Transaction will be cancelled and for continued access such former LTP holder may obtain an 86 Trinity Permit.

<sup>9</sup> 15 U.S.C. 78f(b)(4).