

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59354; File No. SR-NYSE-2008-101]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change To Establish the Risk Management Gateway Service

February 3, 2009.

I. Introduction

On December 12, 2008, New York Stock Exchange LLC ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to establish the Risk Management Gateway ("RMG") service. The proposed rule change was published for comment in the **Federal Register** on December 31, 2008.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to offer, through its wholly-owned subsidiary NYSE Euronext Advanced Trading Solutions, Inc., the RMG service to NYSE members and member organizations pursuant to voluntary, contractual arrangements.⁴ NYSE Transact Tools, Inc, a division of the NYSE Euronext Advanced Trading Solutions Group ("NYXATS"), owns RMG.⁵ NYSE Rule 123B.30 permits NYSE members and member organizations (a "Sponsoring Member Organization") to provide sponsored access to non-member firms or customers ("Sponsored Participants") to Exchange trading systems. Pursuant to this proposal, the Exchange would offer RMG to facilitate a Sponsoring Member Organization's ability to monitor and supervise the trading activity of its Sponsored Participants. RMG is a risk

filter that verifies orders entered by Sponsored Participants prior to the receipt of the order by the Exchange's trading systems. Specifically, RMG verifies whether a Sponsored Participant's order complies with order criteria established by the Sponsoring Member Organization for the Sponsored Participant, including, amongst other things, criteria related to order size (per order or daily quantity limits), credit limits (per order or daily value), specific symbols or end users. If the order is consistent with the parameters set by the Sponsoring Member Organization, after RMG's verification, the order would be permitted to continue along its path to the Exchange's trading systems. However, if the order did not meet the specified parameters, RMG would return the order to the Sponsored Participant.

RMG would only interact with a Sponsored Participant's order prior to the order's receipt by the Exchange's trading system. In addition, RMG would only return an order to the Sponsored Participant if the order did not meet the criteria set by the Sponsoring Member Organization. RMG would not provide order execution or trade reporting capabilities, but RMG would maintain records of all messages related to Sponsored Participants' transactions and provide the applicable Sponsoring Member Organization copies of those records.

The Sponsoring Member Organization, and not RMG, will have full responsibility for ensuring that Sponsored Participants' sponsored access to the Exchange complies with the Exchange's sponsored access rules. The use of the RMG by a Member Organization does not automatically constitute compliance with Exchange rules.

The Exchange proposes to make RMG available to its members and member organizations pursuant to contractual arrangements. The Exchange states that it believes that RMG will offer its members and member organizations another option in the efficient risk management of its Sponsored Participant's access to the NYSE.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the Exchange's proposal to establish its RMG service is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In

particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁷ which requires that an Exchange have rules that are designed 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 Commission believes that RMG should be a useful risk management tool for NYSE member firms that provide sponsored access to the Exchange.

For the foregoing reasons, the Commission believes that the proposal to establish the RMG service is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NYSE-2008-101) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-2700 Filed 2-9-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59348; File No. SR-NYSEALTR-2009-08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Alternext US, LLC Amending Rule 916 To Eliminate the \$3 Market Price Per Share Requirement

February 3, 2009.

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 February 2, 2009, NYSE Alternext US, LLC ("NYSE Amex" or the "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. NYSE Amex has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,³ which renders the proposal effective upon filing with the Commission. The

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59145 (December 22, 2008), 73 FR 80492.

⁴ A similar service has been approved for NYSE Alternext. See Securities Exchange Act Release No. 59353 (February 3, 2009) (SR-NYSEAlternext-2008-12).

⁵ NYXATS will host the RMG software on its infrastructure. After passing through the RMG software, each order will enter the NYSE Common Customer Gateway for connectivity to the Exchange's matching engine. According to the Exchange, in the future, NYXATS may integrate RMG into the NYSE CCG for more direct access to the Exchange's matching engine.

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59145 (December 22, 2008), 73 FR 80492.

⁴ A similar service has been approved for NYSE Alternext. See Securities Exchange Act Release No. 59353 (February 3, 2009) (SR-NYSEAlternext-2008-12).

⁵ NYXATS will host the RMG software on its infrastructure. After passing through the RMG software, each order will enter the NYSE Common Customer Gateway for connectivity to the Exchange's matching engine. According to the Exchange, in the future, NYXATS may integrate RMG into the NYSE CCG for more direct access to the Exchange's matching engine.

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).