

otherwise approved by the Commission. Also, the books, records, premises, officers, agents, directors and employees of ArcaSec, as a facility of NYSE Alternext, will be deemed to be those of the Exchange for purposes of and subject to oversight pursuant to the Act.<sup>24</sup> In addition, use of ArcaSec to route options orders from NYSE Alternext to away market centers is optional, and a NYSE Alternext member is free to route orders to other market centers through alternative means. The Commission also notes that ArcaSec will not route options orders to any affiliated market, unless such market has in place rules that authorize it to receive such routed options orders from its broker-dealer affiliate.<sup>25</sup>

In light of the protections discussed above and contained in NYSE Alternext Equities Rule 17, the Commission believes that it is consistent with the Act to permit NYSE Alternext to use its affiliate, ArcaSec, as its Routing Broker, as proposed.

NYSE Alternext has asked the Commission to accelerate approval of the proposed rule change. NYSE Alternext states that accelerated approval "will permit the Exchange to establish and implement mechanisms to remain fully compliant with its best execution obligations and other Exchange rules immediately upon implementation of its new electronic trading system and in conjunction with the opening of its new trading floor at 11 Wall Street."<sup>26</sup> NYSE Alternext notes that it "intends to implement its new trading system and open its new trading floor on February 9, 2009."<sup>27</sup> The Commission finds good cause for approving the proposed rule change before the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that NYSE Alternext's proposal to use ArcaSec as its outbound order routing facility is consistent with prior Commission action.<sup>28</sup> Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>29</sup> to approve the proposed rule change on an accelerated basis.

<sup>24</sup> See NYSE Alternext Equities Rule 17(b). In addition, the books and records of ArcaSec, as a facility of the Exchange, will be subject at all times to inspection and copying by the Exchange and the Commission. *Id.*

<sup>25</sup> See *supra* note 8.

<sup>26</sup> See SR-NYSEALTR-2009-18, Item 7.

<sup>27</sup> *Id.*

<sup>28</sup> See, e.g., Securities Exchange Act Release Nos. 52497, 55590, and 59009, *supra* note 4.

<sup>29</sup> 15 U.S.C. 78s(b)(2).

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NYSEALTR-2009-18) is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-4779 Filed 3-5-09; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59481; File No. SR-NYSEALTR-2009-20]

### Self-Regulatory Organizations; NYSE Alternext US, LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Amending Its Schedule of Fees and Charges for Exchange Services

March 2, 2009.

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 February 27, 2009, NYSE Alternext US LLC ("NYSE Amex Options" 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 self-regulatory organization. On March 2, 2009, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges for Exchange Services. The text of the new Schedule 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.

<sup>30</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.

#### 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 III 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 purpose of this filing is to amend the existing Fee Schedule in order to reduce the Linkage Fee rates that are currently applied from \$0.60 to \$0.50. The proposed \$0.50 fee will match the \$0.50 fee charged to Broker Dealers executing electronic orders on the Exchange. All Linkage orders executed on the Exchange will be executed electronically. Absent this filing, orders that access the Exchange via Linkage will be charged more than similar electronic transactions on the Exchange.

The Exchange plans to implement the new Fee Schedule on the first day of trading on the new NYSE Amex Options trading floor at 11 Wall Street, currently scheduled for March 2, 2009.

###### 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>3</sup> in general, and Section 6(b)(4),<sup>4</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities for the purpose of executing Linkage orders that are routed to the Exchange from other market centers. This proposal decreases the Linkage Fee for Users. Absent this filing, orders that access the Exchange via Linkage will be charged more than similar electronic transactions executed on the Exchange.

##### 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.

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

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

*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. 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-2009-20 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEALTR-2009-20. 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 Section, 100 F Street, NE., Washington, DC 20549-1090 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at NYSE Amex Options' principal office and on its Internet Web site at <http://www.nyse.com>. 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-2009-20 and should be submitted on or before March 27, 2009.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirement of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>5</sup> and, in particular, with the requirements of Section 6(b) of the Act.<sup>6</sup> In particular, the Commission finds that the Exchange's proposal is consistent with Section 6(b)(4) of the Act,<sup>7</sup> which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Commission notes that the proposal conforms Linkage Fees to those fees charged on other electronic broker-dealer executions.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> for approving the proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission notes that this proposed rule change seeks to lower the Linkage Fees from \$0.60 to \$0.50 to match the \$0.50 fee charged to Broker Dealers executing electronic orders on the Exchange. Absent this filing, orders that access the Exchange via Linkage will be charged more than similar electronic transactions executed on the Exchange.<sup>9</sup> Further, this proposed fee structure is similar to that of NYSE Arca Options.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>10</sup> that the proposed rule change (SR-NYSEALTR-2009-20), as amended by Amendment No. 1, is hereby approved on an accelerated basis to be effective on March 2, 2009.

<sup>5</sup> In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> See SR-NYSEALTR-2009-19.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-4777 Filed 3-5-09; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59478; File No. SR-NYSEALTR-2009-19]

### Self-Regulatory Organizations; NYSE Alternext US, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Schedule of Fees and Charges for Exchange Services

February 27, 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 February 27, 2009, NYSE Alternext US, LLC ("NYSE Amex Options", "NYSE Amex", or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially 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 its Schedule of Fees and Charges for Exchange Services. 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,

<sup>11</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.