

OMB APPROVAL

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2008 - 043

Amendment No.

Proposed Rule Change by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒ Amendment ☐ Withdrawal ☐

Section 19(b)(2) ☒Section 19(b)(3)(A) ☐Section 19(b)(3)(B) ☐

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Pilot ☐ Extension of Time Period
for Commission Action ☐ Date Expires

Exhibit 2 Sent As Paper Document
☐

Exhibit 3 Sent As Paper Document
☐

Description

Provide a brief description of the proposed rule change (limit 250 characters).

A Proposed Rule Change to Establish a Membership Waive-In Process for Certain NYSE Alternext US LLC Member Organizations

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name
Title
E-mail
Telephone Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By
(Name)

(Title)

NOTE: Clicking the button at right will digitally sign and lock
this form. A digital signature is as legally binding as a physical
signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to establish Interpretive Material 1013-2 (“IM-1013-2”), a membership waive-in process for certain American Stock Exchange LLC (“AMEX”), to be renamed NYSE Alternext US LLC (“NYSE Alternext”), member organizations and to amend Interpretive Material Section 4(b)(1) and (e) to Schedule A of the FINRA By-Laws to establish a membership application fee waiver for those NYSE Alternext member organizations that apply for membership pursuant to IM-1013-2. The Waive-In Membership Application Form is attached as Exhibit 3 to this rule filing.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

SCHEDULE A TO THE BY-LAWS OF THE CORPORATION

* * * * *

Section 1 through Section 4(h) No Change.

IM-Section 4(b)(1) and (e) Exemption from Certain Registration and Membership Application Fees for Certain [New York Stock Exchange] NYSE and NYSE Alternext US LLC Member Organizations

NYSE and NYSE Alternext US LLC member organizations that become members of FINRA pursuant to IM-1013-1 and IM-1013-2, respectively, shall not be

¹ 15 U.S.C. 78s(b)(1).

assessed the fee set forth in Section 4(b)(1) to Schedule A of the FINRA By-Laws [of the Corporation] for the initial Form U[-]4 filed by firms for the registration of any representative or principal associated with the member organization at the time a firm submits its application for FINRA membership. Such firms also shall not be assessed the membership application fee set forth in Section 4(e) to Schedule A of the FINRA By-Laws [of the Corporation]. However, those firms will otherwise remain subject to FINRA's By-Laws and Schedules to By-Laws, including Schedule A.

Section 5 through Section 13 No Change.

* * * * *

1000. MEMBERSHIP, REGISTRATION AND QUALIFICATION REQUIREMENTS

* * * * *

1013. New Member Application and Interview

* * * * *

IM-1013-2. Membership Waive-In Process for Certain NYSE Alternext US LLC Member Organizations

This Interpretive Material sets forth a membership waive-in process for certain NYSE Alternext US LLC ("NYSE Alternext") member organizations to become members of FINRA as part of the acquisition by NYSE Euronext of the Amex Membership Corporation. It applies to any NYSE Alternext member organization that (i) holds a valid 86 Trinity Permit as of the date such firm transfers its equities operations to the NYSE Alternext Trading Systems and (ii) is not currently a FINRA member. Such firms are eligible to automatically become FINRA members and to automatically register all associated persons whose registrations are approved with NYSE Alternext in registration categories recognized by FINRA upon submission to FINRA's Member

Regulation Department (“the Department”) of a signed waive-in membership application (“Waive-In Application”) with the following information:

- (1) General company information, including Central Registration Depository (CRD[®]) Number and contact person;
- (2) An attestation that all information on the applicant’s CRD[®] form, as of the date of submission of the Waive-In Application, is accurate and complete and fully reflects all aspects of the applicant’s current business, including, but not limited to, ownership structure, management, product lines and disclosures;
- (3) The identity of the firm’s Executive Representative;
- (4) Completed and signed Entitlement Forms (unless previously submitted);
- (5) A signed FINRA Membership Agreement; and
- (6) Representations that the NYSE Alternext applicant’s Uniform Application for Broker-Dealer Registration (Form BD) will be amended as needed to keep current and accurate; that all individual and entity registrations with FINRA will be kept current; and that all information and statements contained in the Waive-In Application are current, true and complete.

The Department shall review the Waive-In Application within three (3) business days of receipt and, if complete, issue a letter notifying the applicant that it has been approved for membership. The Membership Agreement shall become effective on the date of such notification letter.

Firms admitted pursuant to this Interpretive Material shall be member organizations of both NYSE and NYSE Alternext and as such are subject to the consolidated FINRA rules (provided that firms admitted to FINRA membership under

IM-1013-1 also are subject to the consolidated FINRA rules), the NYSE rules incorporated by FINRA, the FINRA By-Laws and Schedules to By-Laws, including Schedule A, and the NASD Rule 8000 and Rule 9000 Series, provided that their NYSE or NYSE Alternext securities business is limited to floor-based activities in either NYSE-traded or NYSE Alternext-traded securities, or routing away to other markets orders that are ancillary to their core NYSE or NYSE Alternext floor business under NYSE Rule 70.40 or NYSE Alternext Equities Rule 70.40 (“permitted floor activities”). If a firm admitted pursuant to this Interpretive Material seeks to expand its business operations to include any activities other than the permitted floor activities or makes changes to its securities business that would otherwise require FINRA membership, such firm must apply for and receive approval to engage in such business activity pursuant to NASD Rule 1017. Upon approval of such business expansion, the firm shall be subject to all NASD rules, in addition to the consolidated FINRA rules and those NYSE rules incorporated by FINRA.

Pursuant to IM-Section 4(b)(1) and (e) to Schedule A of the FINRA By-Laws, a firm applying to waive in for membership pursuant to this Interpretive Material shall not be assessed certain registration and application fees set forth in Sections 4(b)(1) and (e) to Schedule A of the FINRA By-Laws.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change has been approved by the General Counsel of FINRA (or his officer designee) pursuant to delegated authority. No other action by FINRA is

necessary for the filing of the proposed rule change.

The effective date of the proposed rule change will be the date of approval by the Commission.

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

(a) Purpose

Background

On January 17, 2008, the Amex Membership Corporation and NYSE Euronext entered into an Agreement and Plan of Merger ("Merger Agreement") whereby, through a series of mergers, NYSE Euronext will acquire AMEX ("Merger Transaction")² and as a result of these mergers (the "Mergers"), AMEX will become one of the U.S. wholly owned subsidiaries of NYSE Group and will be renamed NYSE Alternext US LLC.

To achieve efficiencies in the regulation of NYSE Alternext member organizations, NYSE intends to (1) require mandatory FINRA and NYSE membership for NYSE Alternext member organizations (other than those that exclusively trade options),³ (2) adopt a series of member conduct rules for NYSE Alternext member organizations that are substantively identical to the Incorporated NYSE Rules that are the subject of an Agreement among FINRA, New York Stock Exchange LLC, and NYSE Regulation, Inc. ("NYSE Regulation"), pursuant to Rule 17d-2 under the Act (the "17d-2 Agreement"), and (3) amend the 17d-2 Agreement to include NYSE Alternext as a party to that agreement so that FINRA will assume regulatory responsibility consistent with the terms of that agreement for the NYSE Alternext Equities rules that are

² See SR-AMEX-2008-62 and SR-AMEX-2008-63.

³ See SR-NYSE-2008-70.

substantively identical to the Incorporated NYSE Rules.

In furtherance of these efforts, the proposed rule change would establish a membership waive-in process for certain NYSE Alternext member organizations, similar to the process for NYSE member organizations.⁴

The proposed rule change would apply to any NYSE Alternext member organization that holds a valid 86 Trinity Permit⁵ as of the date such firm transfers its equities operations to the NYSE Alternext Trading Systems⁶ and is not currently a FINRA member.

FINRA recognizes that the AMEX and NYSE have comprehensive membership applications and review processes based on similar principles and standards to that of FINRA. As such, those NYSE Alternext member organizations that will become FINRA members already have been subjected to an extensive screening process. Therefore, the proposed rule change would establish IM-1013-2 (Membership Waive-In

⁴ FINRA established a waive-in process to expedite the approval of membership applications of NYSE-only member organizations that were required to become FINRA members. That process is set forth in IM-1013-1 (Membership Waive-In Process for Certain New York Stock Exchange Member Organizations). See Securities Exchange Act Rel. No. 56653 (October 12, 2007), 72 FR 59127 (October 18, 2007) (File No. SR-NASD-2007-056).

⁵ The “86 Trinity Permit” will authorize owners, lessees or nominees of AMEX Regular Members or Options Principal Members (“OPMs”), AMEX limited trading permit holders, and AMEX associate members who were authorized to trade on the AMEX immediately before the Mergers to continue to trade at NYSE Alternext’s systems and facilities at 86 Trinity Place, New York, New York (the “86 Trinity Trading Systems”). NYSE Alternext will recognize the former AMEX (i) owners, lessees or nominees of Regular Members or OPMs, (ii) limited trading permit holders, and (iii) associate members as either NYSE Alternext member organizations or members, as applicable.

⁶ In connection with the Mergers, NYSE Euronext intends to relocate all equities trading previously conducted on the 86 Trinity Trading Systems to the NYSE’s trading systems and facilities located at 11 Wall Street, New York, New York (the “NYSE Alternext Trading Systems”).

Process for Certain NYSE Alternext US LLC Member Organizations), a process that would make such firms eligible to automatically become a FINRA member and to automatically register all associated persons whose registrations are approved with NYSE Alternext in registration categories recognized by FINRA upon submission to FINRA's Member Regulation Department ("the Department") of a signed waive-in membership application ("Waive-In Application").⁷

Associated persons of the NYSE Alternext member organizations will be automatically registered with FINRA only for those registration categories that are recognized jointly by FINRA and NYSE Alternext – e.g., a General Securities Representative (Series 7); provided, however, that the firm must, upon approval of FINRA membership, submit an amended Form U4 for each such associated person, denoting the corresponding FINRA registration category(ies) for such person. A list of those registration categories is included as part of the Waive-In Application. (Please note that both FINRA and AMEX recognize the Series 9/10, but for FINRA, persons who have passed the Series 9/10 may function only as a General Securities Sales Supervisor (see NASD Rule 1022(g))). For those associated persons registered in a category recognized only by NYSE Alternext, FINRA will acknowledge such registrations to permit such persons to continue to function in the capacity for which they are registered.

⁷ The NYSE is proposing a 60-day grace period for such NYSE Alternext member organizations to apply for and be approved for FINRA membership. In coordination with this proposal and with respect to the requirement in Incorporated NYSE Rule 2, FINRA would permit a 60-day grace period within which these member organizations must apply for and be approved for FINRA membership. Such grace period would run from the date that the NYSE Alternext member organization transfers its equities operations to NYSE Alternext Trading Systems.

The Waive-In Application would require the following information:

- (1) General company information, including Central Registration Depository (CRD[®]) Number and contact person;
- (2) An attestation that all information on the applicant's CRD[®] form, as of the date of submission of the Waive-In Application, is accurate and complete and fully reflects all aspects of the applicant's current business, including, but not limited to, ownership structure, management, product lines and disclosures;
- (3) The identity of the firm's Executive Representative;
- (4) Completed and signed Entitlement Forms (unless previously submitted);
- (5) A signed FINRA Membership Agreement; and
- (6) Representations that the applicant's Uniform Application for Broker-Dealer Registration ("Form BD") will be amended as needed to keep current and accurate; that all individual and entity registrations with FINRA will be kept current; and that all information and statements contained in the Waive-In Application are current, true and complete.

The proposed rule change would require the Department to review the Waive-In Application within three (3) business days of receipt and, if complete, issue a letter notifying the applicant that it has been approved for membership. The Membership Agreement would become effective on the date of such notification letter.

As set forth in proposed IM-1013-2, the NYSE Alternext member organizations admitted pursuant to proposed IM-1013-2, being member organizations of both NYSE

and NYSE Alternext, would be subject to the consolidated FINRA rules⁸ (provided that firms admitted to FINRA membership under IM-1013-1 also are subject to the consolidated FINRA rules),⁹ the NYSE rules incorporated by FINRA,¹⁰ the FINRA By-Laws and Schedules to By-Laws, including Schedule A (Assessments and Fees), and the NASD Rule 8000 (Investigations and Sanctions) and Rule 9000 (Code of Procedure) Series, provided that their NYSE or NYSE Alternext securities business is limited to floor-based activities in either NYSE-traded or NYSE Alternext-traded securities, or routing away to other markets orders that are ancillary to their core NYSE or NYSE Alternext floor business under NYSE Rule 70.40 or NYSE Alternext Equities Rule 70.40 (“permitted floor activities”).¹¹

⁸ The new consolidated FINRA rulebook (“Consolidated FINRA Rulebook”) will consist only of FINRA Rules and will apply to all FINRA members, unless such rules have a more limited application by their terms.

⁹ FINRA is proposing that firms admitted to FINRA membership under IM-1013-1 be subject to the consolidated FINRA rules. See Securities Exchange Act Rel. No. 58206 (July 22, 2008), 73 FR 43808 (July 28, 2008).

¹⁰ The NYSE notes in its filing SR-NYSE-2008-70 that while the AMEX rules governing membership are substantially similar to NYSE rules governing membership (i.e., NYSE Rules 311-313), there are certain additional requirements that are not contained in the AMEX rules, including a requirement that a member organization submit an opinion of counsel that a member corporation’s stock is validly issued and outstanding and that restrictions and provisions required by NYSE on the transfer, issuance, conversion and redemption of its stock have been made legally effective. See NYSE Rule 313.20. NYSE proposes to allow NYSE Alternext member organizations six months from the date the member organization transfers its equities operations to the NYSE Alternext Trading Systems to comply with the membership requirements in NYSE Rules 311-313. FINRA also proposes to grant NYSE Alternext member organizations becoming FINRA members pursuant to IM-1013-2 an identical period to comply with Incorporated NYSE Rules 311-313.

¹¹ For purposes of this filing, activities that are ancillary to a Floor broker’s core business include (i) routing orders in NYSE-traded or NYSE Alternext-traded securities to an away market for any reason relating to their ongoing Floor

If an NYSE Alternext member organization admitted pursuant to proposed IM-1013-2 seeks to expand its business operations to include any activities other than the permitted floor activities or makes changes to its securities business that would otherwise require FINRA membership, such firm must apply for and receive approval to engage in such business activity pursuant to NASD Rule 1017. Upon approval of such business expansion, the firm would become subject to all NASD Rules, in addition to the consolidated FINRA rules and those NYSE rules incorporated by FINRA.

Associated persons of an NYSE Alternext member organization admitted to FINRA pursuant to proposed IM-1013-2 would be subject to the same set of rules as the firm with which they are associated. Inasmuch as these associated persons would not be subject to NASD Rules 1021 or 1031, they would not be required to register in a registration category recognized by FINRA. To the extent that such persons continue to be associated solely with a firm whose business complies with the limitations imposed on those firms admitted to FINRA pursuant to proposed IM-1013-2, FINRA is not imposing any registration requirements beyond those required by the NYSE or NYSE Alternext, provided their business is confined in scope as contemplated in proposed IM-1013-2.¹²

activity, including regulatory compliance or meeting best-execution obligations, or (ii) provided that the majority of transactions effected by the firm are effected on the NYSE, sending to other markets orders in NYSE-traded, NYSE Alternext-traded or non-NYSE-traded securities and/or futures if such orders relate to hedging positions in NYSE-traded or NYSE Alternext-traded securities, or are part of arbitrage or program trade strategies that include NYSE-traded or NYSE Alternext-traded securities.

¹² The licensing and other requirements applicable to the NYSE Alternext member organizations and their associated persons are subject to change as part of the process of establishing the Consolidated FINRA Rulebook.

Finally, the proposed rule change would amend Interpretive Material Section 4(b)(1) and 4(e) of Schedule A of the FINRA By-Laws to exempt NYSE Alternext applicants from the assessment of a FINRA membership application fee and from fees for each initial Form U4 filed by the applicant with FINRA for the registration of a representative or principal associated with the firm at the time it submits its application for FINRA membership pursuant to proposed IM-1013-2. FINRA believes the exemption is appropriate because the waive-in application process will not require the same resources by the Department as when a new applicant that is not already a member of NYSE or NYSE Alternext seeks membership.

As noted in Item 2 above, the effective date of the proposed rule change will be the date of Commission approval.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act, including Section 15A(b)(6) of the Act,¹³ in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade and, in general, to protect investors and the public interest. The proposed rule change will facilitate the application process for NYSE Alternext member organizations with a waive-in process that ensures that these firms meet suitable standards for admission into FINRA.

4. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the

¹³ 15 U.S.C. 78o-3(b)(6).

Act.¹⁴

5. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

Written comments were neither solicited nor received.

6. **Extension of Time Period for Commission Action**

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.¹⁵

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Not applicable.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

A condition precedent to the proposed rule change is approval by the Commission of a proposed rule change by NYSE to require all NYSE Alternext member organizations to become members of FINRA. FINRA anticipates that NYSE will file its proposed rule change with the Commission contemporaneously with this filing.

9. **Exhibits**

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 3. Waive-In Membership Application Form.

¹⁴ 15 U.S.C. 78a.

¹⁵ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-043)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Establish a Membership Waive-In Process and Fee Waiver for Certain NYSE Alternext US LLC Member Organizations

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 , Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing a rule change to establish Interpretive Material 1013-2 (“IM-1013-2”), a membership waive-in process for certain American Stock Exchange LLC (“AMEX”), to be renamed NYSE Alternext US LLC (“NYSE Alternext”), member organizations and to amend Interpretive Material Section 4(b)(1) and (e) to Schedule A of the By-Laws to establish a membership application fee waiver for those NYSE Alternext member organizations that apply for membership pursuant to IM-1013-2. The Waive-In Membership Application Form is attached as Exhibit 3 to this rule filing.

¹ 15 U.S.C. 78s(b)(1).

² 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, FINRA 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. FINRA 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

On January 17, 2008, the Amex Membership Corporation and NYSE Euronext entered into an Agreement and Plan of Merger ("Merger Agreement") whereby, through a series of mergers, NYSE Euronext will acquire AMEX ("Merger Transaction")³ and as a result of these mergers (the "Mergers"), AMEX will become one of the U.S. wholly owned subsidiaries of NYSE Group and will be renamed NYSE Alternext US LLC.

To achieve efficiencies in the regulation of NYSE Alternext member organizations, NYSE intends to (1) require mandatory FINRA and NYSE membership for NYSE Alternext member organizations (other than those that exclusively trade options),⁴ (2) adopt a series of member conduct rules for NYSE Alternext member organizations that are substantively identical to the Incorporated NYSE Rules that are the subject of an Agreement among FINRA, New York Stock Exchange LLC, and

³ See SR-AMEX-2008-62 and SR-AMEX-2008-63.

⁴ See SR-NYSE-2008-70.

NYSE Regulation, Inc. (“NYSE Regulation”), pursuant to Rule 17d-2 under the Act (the “17d-2 Agreement”), and (3) amend the 17d-2 Agreement to include NYSE Alternext as a party to that agreement so that FINRA will assume regulatory responsibility consistent with the terms of that agreement for the NYSE Alternext Equities rules that are substantively identical to the Incorporated NYSE Rules.

In furtherance of these efforts, the proposed rule change would establish a membership waive-in process for certain NYSE Alternext member organizations, similar to the process for NYSE member organizations.⁵

The proposed rule change would apply to any NYSE Alternext member organization that holds a valid 86 Trinity Permit⁶ as of the date such firm transfers its equities operations to the NYSE Alternext Trading Systems⁷ and is not currently a FINRA member.

⁵ FINRA established a waive-in process to expedite the approval of membership applications of NYSE-only member organizations that were required to become FINRA members. That process is set forth in IM-1013-1 (Membership Waive-In Process for Certain New York Stock Exchange Member Organizations). See Securities Exchange Act Rel. No. 56653 (October 12, 2007), 72 FR 59127 (October 18, 2007) (File No. SR-NASD-2007-056).

⁶ The “86 Trinity Permit” will authorize owners, lessees or nominees of AMEX Regular Members or Options Principal Members (“OPMs”), AMEX limited trading permit holders, and AMEX associate members who were authorized to trade on the AMEX immediately before the Mergers to continue to trade at NYSE Alternext’s systems and facilities at 86 Trinity Place, New York, New York (the “86 Trinity Trading Systems”). NYSE Alternext will recognize the former AMEX (i) owners, lessees or nominees of Regular Members or OPMs, (ii) limited trading permit holders, and (iii) associate members as either NYSE Alternext member organizations or members, as applicable.

⁷ In connection with the Mergers, NYSE Euronext intends to relocate all equities trading previously conducted on the 86 Trinity Trading Systems to the NYSE’s trading systems and facilities located at 11 Wall Street, New York, New York (the “NYSE Alternext Trading Systems”).

FINRA recognizes that the AMEX and NYSE have comprehensive membership applications and review processes based on similar principles and standards to that of FINRA. As such, those NYSE Alternext member organizations that will become FINRA members already have been subjected to an extensive screening process. Therefore, the proposed rule change would establish IM-1013-2 (Membership Waive-In Process for Certain NYSE Alternext US LLC Member Organizations), a process that would make such firms eligible to automatically become a FINRA member and to automatically register all associated persons whose registrations are approved with NYSE Alternext in registration categories recognized by FINRA upon submission to FINRA's Member Regulation Department ("the Department") of a signed waive-in membership application ("Waive-In Application").⁸

Associated persons of the NYSE Alternext member organizations will be automatically registered with FINRA only for those registration categories that are recognized jointly by FINRA and NYSE Alternext – e.g., a General Securities Representative (Series 7); provided, however, that the firm must, upon approval of FINRA membership, submit an amended Form U4 for each such associated person, denoting the corresponding FINRA registration category(ies) for such person. A list of those registration categories is included as part of the Waive-In

⁸ The NYSE is proposing a 60-day grace period for such NYSE Alternext member organizations to apply for and be approved for FINRA membership. In coordination with this proposal and with respect to the requirement in Incorporated NYSE Rule 2, FINRA would permit a 60-day grace period within which these member organizations must apply for and be approved for FINRA membership. Such grace period would run from the date that the NYSE Alternext member organization transfers its equities operations to NYSE Alternext Trading Systems.

Application. (Please note that both FINRA and AMEX recognize the Series 9/10, but for FINRA, persons who have passed the Series 9/10 may function only as a General Securities Sales Supervisor (see NASD Rule 1022(g))). For those associated persons registered in a category recognized only by NYSE Alternext, FINRA will acknowledge such registrations to permit such persons to continue to function in the capacity for which they are registered.

The Waive-In Application would require the following information:

- (1) General company information, including Central Registration Depository (CRD[®]) Number and contact person;
- (2) An attestation that all information on the applicant's CRD[®] form, as of the date of submission of the Waive-In Application, is accurate and complete and fully reflects all aspects of the applicant's current business, including, but not limited to, ownership structure, management, product lines and disclosures;
- (3) The identity of the firm's Executive Representative;
- (4) Completed and signed Entitlement Forms (unless previously submitted);
- (5) A signed FINRA Membership Agreement; and
- (6) Representations that the applicant's Uniform Application for Broker-Dealer Registration ("Form BD") will be amended as needed to keep current and accurate; that all individual and entity registrations with FINRA will be kept current; and that all information and statements contained in the Waive-In Application are current, true and complete.

The proposed rule change would require the Department to review the Waive-In Application within three (3) business days of receipt and, if complete, issue a letter

notifying the applicant that it has been approved for membership. The Membership Agreement would become effective on the date of such notification letter.

As set forth in proposed IM-1013-2, the NYSE Alternext member organizations admitted pursuant to proposed IM-1013-2, being member organizations of both NYSE and NYSE Alternext, would be subject to the consolidated FINRA rules⁹ (provided that firms admitted to FINRA membership under IM-1013-1 also are subject to the consolidated FINRA rules),¹⁰ the NYSE rules incorporated by FINRA,¹¹ the FINRA By-Laws and Schedules to By-Laws, including Schedule A (Assessments and Fees), and the NASD Rule 8000 (Investigations and Sanctions) and Rule 9000 (Code of Procedure) Series, provided that their NYSE or NYSE Alternext securities business is limited to floor-based activities in either NYSE-traded or NYSE Alternext-traded securities, or routing away to other markets orders that are ancillary to their core NYSE or NYSE

⁹ The new consolidated FINRA rulebook (“Consolidated FINRA Rulebook”) will consist only of FINRA Rules and will apply to all FINRA members, unless such rules have a more limited application by their terms.

¹⁰ FINRA is proposing that firms admitted to FINRA membership under IM-1013-1 be subject to the consolidated FINRA rules. See Securities Exchange Act Rel. No. 58206 (July 22, 2008), 73 FR 43808 (July 28, 2008).

¹¹ The NYSE notes in its filing SR-NYSE-2008-70 that while the AMEX rules governing membership are substantially similar to NYSE rules governing membership (i.e., NYSE Rules 311-313), there are certain additional requirements that are not contained in the AMEX rules, including a requirement that a member organization submit an opinion of counsel that a member corporation’s stock is validly issued and outstanding and that restrictions and provisions required by NYSE on the transfer, issuance, conversion and redemption of its stock have been made legally effective. See NYSE Rule 313.20. NYSE proposes to allow NYSE Alternext member organizations six months from the date the member organization transfers its equities operations to the NYSE Alternext Trading Systems to comply with the membership requirements in NYSE Rules 311-313. FINRA also proposes to grant NYSE Alternext member organizations becoming FINRA members pursuant to IM-1013-2 an identical period to comply with Incorporated NYSE Rules 311-313.

Alternext floor business under NYSE Rule 70.40 or NYSE Alternext Equities Rule 70.40 (“permitted floor activities”).¹²

If an NYSE Alternext member organization admitted pursuant to proposed IM-1013-2 seeks to expand its business operations to include any activities other than the permitted floor activities or makes changes to its securities business that would otherwise require FINRA membership, such firm must apply for and receive approval to engage in such business activity pursuant to NASD Rule 1017. Upon approval of such business expansion, the firm would become subject to all NASD Rules, in addition to the consolidated FINRA rules and those NYSE rules incorporated by FINRA.

Associated persons of an NYSE Alternext member organization admitted to FINRA pursuant to proposed IM-1013-2 would be subject to the same set of rules as the firm with which they are associated. Inasmuch as these associated persons would not be subject to NASD Rules 1021 or 1031, they would not be required to register in a registration category recognized by FINRA. To the extent that such persons continue to be associated solely with a firm whose business complies with the limitations imposed on those firms admitted to FINRA pursuant to proposed IM-1013-2, FINRA is not imposing any registration requirements

¹² For purposes of this filing, activities that are ancillary to a Floor broker’s core business include (i) routing orders in NYSE-traded or NYSE Alternext-traded securities to an away market for any reason relating to their ongoing Floor activity, including regulatory compliance or meeting best-execution obligations, or (ii) provided that the majority of transactions effected by the firm are effected on the NYSE, sending to other markets orders in NYSE-traded, NYSE Alternext-traded or non-NYSE-traded securities and/or futures if such orders relate to hedging positions in NYSE-traded or NYSE Alternext-traded securities, or are part of arbitrage or program trade strategies that include NYSE-traded or NYSE Alternext-traded securities.

beyond those required by the NYSE or NYSE Alternext, provided their business is confined in scope as contemplated in proposed IM-1013-2.¹³

Finally, the proposed rule change would amend Interpretive Material Section 4(b)(1) and 4(e) of Schedule A of the FINRA By-Laws to exempt NYSE Alternext applicants from the assessment of a FINRA membership application fee and from fees for each initial Form U4 filed by the applicant with FINRA for the registration of a representative or principal associated with the firm at the time it submits its application for FINRA membership pursuant to proposed IM-1013-2. FINRA believes the exemption is appropriate because the waive-in application process will not require the same resources by the Department as when a new applicant that is not already a member of NYSE or NYSE Alternext seeks membership.

The effective date of the proposed rule change will be the date of Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁴ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change will facilitate the application process for NYSE Alternext member organizations with a waive-in process that ensures that these firms

¹³ The licensing and other requirements applicable to the NYSE Alternext member organizations and their associated persons are subject to change as part of the process of establishing the Consolidated FINRA Rulebook.

¹⁴ 15 U.S.C. 78o-3(b)(6).

meet suitable standards for admission into FINRA.

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

FINRA does not believe that the proposed rule change will result in 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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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. Please include File Number SR-FINRA-2008-043 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Florence E. Harmon, Acting Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2008-043. 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. Copies of such filing also will be available for inspection and copying at the principal office of FINRA.

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-FINRA-2008-043 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.¹⁵

Florence E. Harmon
Acting Secretary

¹⁵ 17 CFR 200.30-3(a)(12).

EXHIBIT 3

**FINRA
Waive-In Membership Application Form**

To qualify for Waive-in Membership in FINRA, the Applicant must hold a valid 86 Trinity Permit as of the date such firm transfers its equities operations to the NYSE Alternext Trading Systems and is not currently a FINRA member. Such Applicant is eligible to automatically become a FINRA member and to automatically register all associated persons whose registrations are approved with NYSE Alternext in registration categories recognized by FINRA. To apply, please complete and submit this Waive-In Application Form and Membership Agreement and supporting documentation via certified or first class mail, courier or messenger service to:

**FINRA
One Liberty Plaza
New York, NY 10005
Attention: MAP Department**

Applicants are required to update any information submitted in this Application Form when and if it becomes inaccurate or incomplete after submission.

Part I

A. General Company Information

Firm Applicant Name

Date

Address

City State Zip

Central Registration Depository (CRD[®]) Number

Contact Name (For Questions Concerning this Application)

Contact Title

Telephone

Facsimile

Email

B. Nature of Business Activity with FINRA

Applicant hereby attests to the accuracy and completeness of all information that appears on its Form BD, as of the date of submission of this document, and that the information contained therein fully reflects all aspects of the Applicant's current business, including, but not limited to, ownership structure, management, product lines and disclosures. If the Applicant seeks to engage in a business activity beyond floor-based activities in either NYSE-traded or NYSE Alternext-traded securities, or routing away to other markets orders that are ancillary to their core NYSE or NYSE Alternext floor business under NYSE Rule 70.40 or NYSE Alternext Equities Rule 70.40,¹ or makes changes to its securities business that would otherwise require FINRA membership, such Applicant will be required, pursuant to NASD Rule 1017, to apply for approval to engage in such business activity.

C. Executive Representative

An Applicant must identify an Executive Representative as required by Article IV, Section 3 of the FINRA By-Laws. Please provide the name and CRD[®] number of the Executive Representative:

Identify the Executive Representative of the Firm.

Name

Title

Central Registration Depository (CRD[®]) Number

D. Entitlement Forms

Complete the attached Entitlement Forms with this application.

http://www.finra.org/web/groups/rules_regs/documents/regulatory_systems/p010901.pdf

¹ For purposes of this filing, activities that are ancillary to a Floor broker's core business include (i) routing orders in NYSE-traded or NYSE Alternext-traded securities to an away market for any reason relating to their ongoing Floor activity, including regulatory compliance or meeting best-execution obligations, or (ii) provided that the majority of transactions effected by the firm are effected on the NYSE or NYSE Alternext, sending to other markets orders in NYSE-traded, NYSE Alternext-traded or non-NYSE-traded securities and/or futures if such orders relate to hedging positions in NYSE-traded or NYSE Alternext-traded securities, or are part of arbitrage or program trade strategies that include NYSE-traded or NYSE Alternext-traded securities.

Part II

Registration Transfers

FINRA will effect an automatic registration, via CRD[®], of all Associated Persons whose registrations with the firm under current NYSE Alternext Equities Rules are active in the following registration categories:

- *Series 4 (Registered Options Principal)*
- *Series 6 (Limited Representative, Investment Company and Variable Contracts Products)*
- *Series 7 (General Securities Representative)*
- *Series 9/10 (General Securities Sales Supervisor) **
- *Series 16 (Supervisory Analyst)*
- *Series 17 (United Kingdom – Limited General Securities Registered Representative)*
- *Series 22 (Direct Participation Program Representative)*
- *Series 24 (General Securities Principal)*
- *Series 26 (Investment Company and Variable Contracts Products Principal)*
- *Series 27 (Financial and Operations Principal)*
- *Series 37/38 (Canada – Limited General Securities Registered Representative)*
- *Series 39 (Direct Participation Program Principal)*
- *Series 52 (Municipal Securities Representative)*
- *Series 55 (Equity Trader)*
- *Series 62 (Corporate Securities Representative)*

* An Associated Person of an NYSE Alternext member organization registered as a Branch Office Manager will be recognized by FINRA as a General Securities Sales Supervisor.

FINRA
Membership Agreement

FIRM APPLICANT NAME AND CENTRAL REGISTRATION DEPOSITORY (CRD®) NUMBER

In connection with this application for membership in FINRA, and in the event that this application is approved for FINRA membership, the Applicant hereby agrees to abide by the terms and conditions set forth below:

The Applicant agrees that if the Applicant seeks to engage in a business activity beyond floor-based activities in either NYSE-traded or NYSE Alternext-traded securities, or routing away to other markets orders that are ancillary to their core NYSE or NYSE Alternext floor business under NYSE Rule 70.40 or NYSE Alternext Equities Rule 70.40, or makes changes to its securities business that would otherwise require FINRA membership, the Applicant will, pursuant to NASD Rule 1017, apply for approval to engage in such business activity.

The Applicant also agrees:

- A. To comply with the federal securities laws, the rules and regulations thereunder, applicable rules of FINRA and all rulings, orders, directions and decisions issued and sanctions imposed under applicable FINRA rules;
- B. To pay such dues, assessments and other charges in the manner and amount as from time to time shall be fixed pursuant to applicable FINRA rules; and
- C. That this Agreement has been executed on behalf of, and with the authority of, the above-named Applicant.

The Undersigned and Applicant represent that the information and statements contained within the application and other information filed are current, true and complete. The undersigned and the Applicant further represent that to the extent that any information submitted is not amended, such information is currently accurate and complete and agree that the information contained in the Applicant's Uniform Application for Broker-Dealer Registration (Form BD) will be kept current and accurate by proper amending of the Form BD as changes occur. Applicant further represents that the registrations for waived-in Associated Persons registered with FINRA will be kept current by proper amending of Form U4 and Form U5.

This agreement becomes effective after review of the application materials by FINRA and upon the date that FINRA issues a letter to the Applicant indicating it has been approved for membership.

By

Print Name

Title

Signature Date
