

persons or entities that trade on the Exchange or other interested parties.

### 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 Amex 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.

The Exchange is targeting a closing date of August 29, 2008 for the Mergers. In the event that it is necessary in order to facilitate that timetable, the Exchange requests that the Commission accelerate effectiveness of the filing pursuant to Section 19(b)(2) to a date no later than August 29, 2008.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2008-62 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. All submissions should refer to File Number SR-Amex-2008-62. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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-2008-62 and should be submitted on or before August 28, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>77</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58286; File No. SR-Amex-2008-64]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt New Rule 478T To Set Forth the Temporary Procedures That Will Apply to Disciplinary Proceedings Pending as of the Closing Date of the Acquisition of the Exchange by NYSE Euronext

August 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 28, 2008, American Stock Exchange LLC, a Delaware limited liability company ("Amex" or "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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>77</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.

### 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, Inc. ("NYSE Arca"), Amex is seeking to revise its procedural rules governing disciplinary proceedings to more closely align such rules with the NYSE's disciplinary procedural rules. The rule changes that would implement this change are proposed in SR-Amex-2008-62. However, in order to avoid any potential confusion to respondents in pending disciplinary matters that have been commenced prior to the date of closing of the transaction, the Exchange believes it is advisable to apply its current procedural rules governing disciplinary proceedings to such matters. Accordingly, the Exchange proposes to adopt new Rule 478T to set forth the temporary procedures that will apply to those pending disciplinary proceedings, and which rule will only become operative as of the closing of the acquisition.

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. The text of Exhibit 5 is available on the Commission's Web site (<http://www.sec.gov/rules/sro.shtml>).

### 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 Exchange 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 Exchange 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

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"). Following completion of the Transaction, Amex will be

renamed NYSE Alternext U.S. LLC ("NYSE Alternext U.S.") and will contract with NYSE Regulation, Inc. ("NYSE Regulation") for the performance of the Exchange's regulatory functions.<sup>3</sup> In order to enable a consistent approach to disciplinary matters, the Exchange has determined to revise the Exchange procedural rules governing disciplinary matters to align such rules with those of the NYSE. To this end, in SR-Amex-2008-62, the Exchange is proposing to adopt new Rules 475, 476 and 477, which are substantially similar to NYSE Rules 475, 476 and 477. However, in order to avoid any potential confusion to respondents in disciplinary matters that have been commenced and are still pending as of the date of closing of the Transaction (each a "Legacy Disciplinary Proceeding"), the Exchange believes it is advisable to continue to apply to such Legacy Disciplinary Proceedings the current procedural rules governing Exchange disciplinary proceedings (with some modifications discussed below). Accordingly, the Exchange proposes to adopt new Rule 478T to set forth the temporary procedures that will apply to such Legacy Disciplinary Proceedings at NYSE Alternext U.S. with such rule to become operative only as of the closing of the Transaction.<sup>4</sup>

Currently, the procedural rules governing Amex disciplinary proceedings are set forth in portions of the Amex Constitution, Amex Rule 345, and the Rules of Procedure in Disciplinary Matters (collectively, the "Legacy Disciplinary Procedural Rules"). Proposed Rule 478T would effectively "grandfather" the substance of these Legacy Disciplinary Procedural Rules for any Legacy Disciplinary Proceedings at NYSE Alternext U.S. insofar as the provisions thereof apply to resolution of disciplinary matters by means of a settlement (*i.e.*, stipulation and consent) or hearing. The Legacy Disciplinary Procedural Rules, as incorporated in proposed Rule 478T(c), however, have been modified in certain respects from their current form to account for certain changes in the disciplinary structures and processes at NYSE Alternext U.S. expected as a consequence of the Transaction. The

two most substantial of these changes are as follows:<sup>5</sup>

First, the Amex roster of appointed hearing officers and hearing board members (from which the chairmen and members of individually constituted disciplinary hearing panels are currently selected) will cease to exist. Instead, individual hearing panels will be selected from a new roster of hearing officers and hearing board members to be appointed by the Chairman of the NYSE Alternext U.S. Board of Directors pursuant to proposed NYSE Alternext U.S. Rule 476(b). Therefore, all references to legacy Amex rules or procedures dealing with the appointment of the roster of hearing officers and the hearing board in the Legacy Disciplinary Procedural Rules have been eliminated and/or replaced, as necessary, with references to proposed NYSE Alternext U.S. Rule 476(b). Notwithstanding the change in the manner in which the roster of hearing officers and hearing board members is assembled, the process of selection of hearing officers and hearing board members from that roster to serve on an individual hearing panel will not change.<sup>6</sup>

Second, appeals from disciplinary determinations will be governed solely by the new NYSE Alternext U.S. Rules pertaining to appeals. Specifically, the Amex Adjudicatory Council (a body which heard appeals from determinations of Amex disciplinary panels, and whose decisions, in turn, could be further appealed to the Exchange Board of Governors) will cease to exist. Its functions will be performed by an official standing committee of NYSE Regulation (the "NYSE Regulation Committee") charged with the responsibility to review determinations in Legacy Disciplinary Proceedings and render advisory opinions on same to the Exchange Board of Directors, which will have the

<sup>5</sup> Additionally, various sections of the Legacy Disciplinary Procedural Rules have been modified from the original to convert references from "Disciplinary Hearing Panel" to "Hearing Panel"; "Board of Governors" to "Board of Directors"; and miscellaneous corrections to internal cross-references in the rules have been made to the extent necessary.

<sup>6</sup> Additionally, a reference in Rule 2(a) of the Legacy Rules of Disciplinary Procedure to the chairmen of individual hearing panels being selected by the Chief Executive Officer of the Exchange on a rotating basis from a roster of "Exchange Officials" eligible to serve on hearing panels has been corrected to refer to "hearing officers" instead. This more properly reflects the current appointment practice at the Exchange where hearing panel chairman appointments are made on a rotating basis among personnel supplied to the Exchange pursuant to a Regulatory Services Agreement and designated as Exchange "hearing officers."

ultimate responsibility to rule on such appeals. Accordingly, all references to the Amex Adjudicatory Council and the appeals process in the Legacy Disciplinary Procedural Rules have been eliminated and/or replaced, as necessary, with references to the NYSE Regulation Committee and the new NYSE Alternext U.S. rules pertaining to appeals from disciplinary determinations.<sup>7</sup>

After all Legacy Disciplinary Proceedings have been concluded, Rule 478T will cease to have any applicability, as all disciplinary proceedings commenced on or after the date of closing of the Transaction will be governed by the new NYSE Alternext U.S. disciplinary procedural rules. The scope and applicability of proposed Rule 478T is as follows:

Paragraph (a) limits the application of the rule to "Legacy Disciplinary Proceedings" which are defined to include the following types of matters, if commenced by the Exchange and still pending as of the closing date of the Transaction: Disciplinary charges; executed (but not yet approved) stipulations and consents; suspensions; summary proceedings; and summary fine notices for minor rule violations.

Paragraph (b) provides that Legacy Disciplinary Proceedings will be governed by the Legacy Disciplinary Procedural Rules set forth in paragraph (c), except that review of Exchange disciplinary determinations, sanctions guidelines, and procedures for the Exchange's retention of jurisdiction over former members, member organizations and employees thereof will be governed by the new NYSE Alternext U.S. disciplinary procedural rules.

Subsection (c) is where the Legacy Disciplinary Procedural Rules are incorporated, with necessary modifications to the original text of the legacy Amex Constitution, Rule 345, and Rules of Procedure in Disciplinary Matters as described above.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Sections 6(b)(6), 6(b)(7) and 6(d)<sup>8</sup> of the Act in that it is designed to ensure that

<sup>7</sup> See proposed NYSE Alternext Rules 475(c) and (j) and 476(e)-(g). Further, Section 3(f) of Legacy Article V of the Amex Constitution and Section 5(a) of Legacy Article IV of the Amex Constitution hold open the possibility that the NYSE Regulation Committee may also be charged with the responsibility to hear: (i) Appeals from suspensions of members and member organizations in view of their financial and/or operating condition and (ii) applications for reinstatement following such suspensions.

<sup>8</sup> 15 U.S.C. 78f(b)(6), 15 U.S.C. 78f(b)(7), 15 U.S.C. 78f(d).

<sup>3</sup> NYSE Regulation is an indirect wholly-owned subsidiary of NYSE Euronext, which performs the regulatory functions of the NYSE and NYSE Arca. NYSE Regulation will fulfill the same functions for the Exchange pursuant to a regulatory services agreement. The Exchange will retain ultimate legal responsibility for, and control of, its self-regulatory responsibilities.

<sup>4</sup> It is further intended that this rule change proposal take effect at the same time as SR-Amex-2008-62.

members and persons associated with its members of the Exchange shall be appropriately disciplined for violation of the securities laws, the rules or regulations thereunder, or the rules of the Exchange; provide a fair procedure for imposition of such discipline; and ensure that a record is kept of such proceedings.

#### *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 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**

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.

The Exchange is targeting August 29, 2008 for the closing date of the Transaction, and has requested that the Commission accelerate effectiveness of SR-Amex-2008-62 pursuant to Section 19(b)(2) to a date no later than August 29, 2008, if necessary in order to facilitate that timetable. To the extent the Commission determines to grant such request, the Exchange further requests that the instant filing be given similar accelerated treatment, to insure that proposed Rule 478T becomes operative and effective simultaneously with the other new disciplinary rules for the Exchange proposed in SR-Amex-2008-62.

### **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-2008-64 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-Amex-2008-64. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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-2008-64 and should be submitted on or before August 28, 2008.

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

**Florence E. Harmon,**

*Acting Secretary.*

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58272; File No. SR-Amex-2008-61]

### **Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Listing and Trading of Broad-Based Index Binary Options**

July 31, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 29, 2008, the American Stock Exchange LLC (the "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 substantially by the Exchange. 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 list and trade binary options based on certain broad-based indexes.

The text of the proposed rule change is available at the Amex's principal office, the Commission's Public Reference Room, and <http://www.amex.com>.

#### **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 Amex 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 Exchange 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**

The purpose of this proposed rule change is to enable the listing and trading on the Exchange of binary options on certain broad-based

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

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