SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59477/February 27, 2009]

Order Making Fiscal Year 2009 Mid-Year Adjustment to the Fee Rates Applicable Under Sections 31(b) and (c) of the Securities Exchange Act of 1934

I. Background

Section 31 of the Securities Exchange Act of 1934 (''Exchange Act'') requires each national securities exchange and national securities association to pay transaction fees to the Commission.[1] Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted on the exchange.[2] Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted by or through any member of the association other than on an exchange.[3]

Sections 31(j)(1) and (3) require the Commission to make annual adjustments to the fee rates applicable under Sections 31(b) and (c) for each of the fiscal years 2003 through 2011, and one final adjustment to fix the fee rates for fiscal year 2012 and beyond.[4] Section 31(j)(2) requires the Commission, in certain circumstances, to make a mid-year adjustment to the fee rates in fiscal years 2002 through 2011.[5] The annual and mid-year adjustments are designed to adjust the fee rates in a given fiscal year so that, when applied to the aggregate dollar volume of sales for the fiscal year, they are reasonably likely to produce total fee collections under Section 31 equal to the ''target offsetting collection amount'' specified in Section 31(*l*)(1) for that fiscal year.[6] For fiscal year 2009, the target offsetting collection amount is $1,023,000,000.[7]

II. Determination of the Need for a Mid-Year Adjustment in Fiscal 2009

Under Section 31(j)(2) of the Exchange Act, the Commission must make a mid-year adjustment to the fee rates under Sections 31(b) and (c) in fiscal year 2009 if it determines, based on the actual aggregate dollar volume of sales during the first five months of the fiscal year, that the baseline estimate $113,703,210,464,919 is reasonably likely to be 10% (or more) greater or less than the actual aggregate dollar volume of sales for fiscal year 2009.[8] To make this determination, the Commission must estimate the actual aggregate dollar volume of sales for fiscal year 2009.

Based on data provided by the national securities exchanges and the national securities association that are subject to Section 31,[9] the actual aggregate dollar volume of sales during the first four months of fiscal year 2009 was $24,218,758,303,585.[10] Using these data and a methodology for estimating the aggregate dollar amount of sales for the remainder of fiscal year 2009 (developed after consultation with the Congressional Budget Office and the OMB),[11] the Commission estimates that the aggregate dollar amount of sales for the remainder of fiscal year 2009 to be $42,139,232,747,921. Thus, the Commission estimates that the actual aggregate dollar volume of sales for all of fiscal year 2009 will be $66,357,991,051,506.

Because the baseline estimate of $113,703,210,464,919 is more than 10% greater than the $66,357,991,051,506 estimated actual aggregate dollar volume of sales for fiscal year 2009, Section 31(j)(2) of the Exchange Act requires the Commission to issue an order adjusting the fee rates under Sections 31(b) and (c).

III. Calculation of the Uniform Adjusted Rate

Section 31(j)(2) specifies the method for determining the mid-year adjustment for fiscal 2009. Specifically, the Commission must adjust the rates under Sections 31(b) and (c) to a ''uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of fiscal year 2009, is reasonably likely to produce aggregate fee collections under Section 31 (including fees collected during such 5-month period and assessments collected under Section 31(d)) that are equal to $1,023,000,000.''[12] In other words, the uniform adjusted rate is determined by subtracting fees collected prior to the effective date of the new rate and assessments collected under Section 31(d) during all of fiscal year 2009 from $1,023,000,000, which is the target offsetting collection amount for fiscal year 2009. That difference is then divided by the revised estimate of the aggregate dollar volume of sales for the remainder of the fiscal year following the effective date of the new rate.

The Commission estimates that it will collect $190,542,394 in fees for the period prior to the effective date of the mid-year adjustment[13] and $8,640 in assessments on round turn transactions in security futures products during all of fiscal year 2009. Using the methodology referenced in Part II above, the Commission estimates that the aggregate dollar volume of sales for the remainder of fiscal year 2009 following the effective date of the new rate will be $32,332,563,584,044. This amount reflects more recent information on the dollar amount of sales of securities than was available at the time of the setting of the initial fee rate for fiscal year 2009, and indicates a significant reduction in sales. Based on these estimates, and employing the mid-year adjustment mechanism established by statute, the uniform adjusted rate is $25.70 per million of the aggregate dollar amount of sales of securities.[14] The aggregate

[1] 15 U.S.C. 78ee.

[2] 15 U.S.C. 78ee(b).

[3] 15 U.S.C. 78ee(c).

[4] 15 U.S.C. 78ee(j)(1) and (j)(3).

[5] 15 U.S.C. 78ee(j)(2).

[6] 15 U.S.C. 78ee(*l*)(1).

[7] *Id.*

[8] The amount $113,703,210,464,919 is the baseline estimate of the aggregate dollar amount of sales for fiscal year 2009 calculated by the Commission in its Order Making Fiscal 2009 Annual Adjustments to the Fee Rates Applicable Under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), 31(b) and 31(c) of the Securities Exchange Act of 1934, Rel. No. 33–8916 (May 2, 2008), 73 FR 25795 (May 7, 2008).

[9] The Financial Industry Regulatory Authority, Inc. (''FINRA'') and each exchange is required to file a monthly report on Form R31 containing dollar volume data on sales of securities subject to Section 31. The report is due on the 10th business day following the month for which the exchange or association provides dollar volume data.

[10] Although Section 31(j)(2) indicates that the Commission should determine the actual aggregate dollar volume of sales for fiscal 2009 ''based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year,'' data are only available for the first four months of the fiscal year as of the date the Commission is required to issue this order, *i.e.*, March 1, 2009. Dollar volume data on sales of securities subject to Section 31 for February 2009 will not be available from the exchanges and FINRA for several weeks.

[11] *See* Appendix A.

[12] U.S.C. 78ee(j)(2). The term ''fees collected'' is not defined in Section 31. Because national securities exchanges and national securities associations are not required to pay the first installment of Section 31 fees for fiscal 2009 until March 15, the Commission will not ''collect'' any fees in the first five months of fiscal 2009. *See* 15 U.S.C. 78ee(e). However, the Commission believes that, for purposes of calculating the mid-year adjustment, Congress, by stating in Section 31(j)(2) that the ''uniform adjusted rate * * * is reasonably likely to produce aggregate fee collections under Section 31 * * * that are equal to [$1,023,000,000],'' intended the Commission to include the fees that the Commission will collect based on transactions in the six months before the effective date of the mid-year adjustment.

[13] This calculation is based on the assumption that the mid-year adjustment will go into effect on April 1, 2009 pursuant to Section 31(j)(4)(B) of the Exchange Act. However, see the discussion below regarding the actual effective date of the mid-year adjustment.

[14] The calculation is as follows: ($1,023,000,000 − $190,542,394—$8,640)/ $32,332,563,584,044 = $0.0000257467. Round this result to the seventh decimal point, yielding a rate of $25.70 per million.

dollar amount of sales of securities subject to Section 31 fees is illustrated in Appendix A.

IV. Effective Date of the Uniform Adjusted Rate

Section 31(j)(4)(B) of the Exchange Act provides that a mid-year adjustment shall take effect on April 1 of the fiscal year in which such rate applies. However, it is possible that the effective date will be delayed this fiscal year because of the lapse of appropriation provision in Section 31(k) of the Exchange Act. That section provides that, if on the first day of the fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted. Therefore, the exchanges and the national securities association that are subject to Section 31 fees must pay fees under Sections 31(b) and (c) at the uniform adjusted rate of $25.70 per million for sales of securities transacted on the later of (i) April 1, 2009, or (ii) 30 days after the date on which a regular appropriation to the Commission for fiscal year 2009 is enacted. This fee rate will remain in place until the fee rate for fiscal year 2010 takes effect.[15]

V. Conclusion

Accordingly, pursuant to Section 31 of the Exchange Act,[16]

It is hereby ordered that each of the fee rates under Sections 31(b) and (c) of the Exchange Act shall be $25.70 per $1,000,000 of the aggregate dollar amount of sales of securities subject to these sections, effective on the later of (i) April 1, 2009, or (ii) 30 days after the date on which a regular appropriation to the Commission for fiscal year 2009 is enacted.

By the Commission.

Elizabeth M. Murphy,

Secretary.

Appendix A

A. Baseline estimate of the aggregate dollar amount of sales.

First, calculate the average daily dollar amount of sales (ADS) for each month in the sample (January 1999–January 2009). The data obtained from the exchanges and FINRA are presented in Table A. The monthly aggregate dollar amount of sales from all exchanges and FINRA is contained in column C.

Next, calculate the change in the natural logarithm of ADS from month-to-month. The average monthly change in the logarithm of ADS over the entire sample is 0.007 and the standard deviation 0.130. Assume the monthly percentage change in ADS follows a random walk. The expected monthly percentage growth rate of ADS is 1.6 percent.

Now, use the expected monthly percentage growth rate to forecast total dollar volume. For example, one can use the ADS for January 2009 ($233,508,979,959) to forecast ADS for February 2009 ($237,184,035,788 = $233,508,979,959 × 1.016).[17] Multiply by the number of trading days in February 2009 (19) to obtain a forecast of the total dollar volume for the month ($4,506,496,679,977). Repeat the method to generate forecasts for subsequent months.

The forecasts for total dollar volume are in column G of Table A. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's total dollar volume (column C) by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month t, calculate the change in ADS from the previous month as $\Delta_t = \log(ADS_t/ADS_{t-1})$, where log (x) denotes the natural logarithm of x.

3. Calculate the mean and standard deviation of the series $\{\Delta_1, \Delta_2, * * *, \Delta_{120}\}$. These are given by $\mu = 0.007$ and $\sigma = 0.130$, respectively.

4. Assume that the natural logarithm of ADS follows a random walk, so that Δ_s and Δ_t are statistically independent for any two months s and t.

5. Under the assumption that Δ_t is normally distributed, the expected value of ADS_t/ADS_{t-1} is given by $\exp(\mu + \sigma^2/2)$, or on average $ADS_t = 1.016 \times ADS_{t-1}$.

6. For February 2009, this gives a forecast ADS of 1.016 × $233,508,979,959 = $237,184,035,788. Multiply this figure by the 19 trading days in February 2009 to obtain a total dollar volume forecast of $4,506,496,679,977.

7. For March 2009, multiply the February 2009 ADS forecast by 1.016 to obtain a forecast ADS of $240,916,931,086. Multiply this figure by the 22 trading days in March 2009 to obtain a total dollar volume forecast of $5,300,172,483,900.

8. Repeat this procedure for subsequent months.

B. Using the forecasts from A to calculate the new fee rate.

1. Determine the actual and projected aggregate dollar volume of sales between 10/1/08 and 3/31/09 to be $34,025,427,467,462. Multiply this amount by the fee rate of $5.60 per million dollars in sales during this period and get an estimate of $190,542,394 in actual and projected fees collected during 10/1/08 and 3/31/09.

2. Estimate the amount of assessments on security futures products collected during 10/1/08 and 9/30/09 to be $8,640 by summing the amounts collected through January of $3,096 with projections of a 1.6% monthly increase in subsequent months.

3. Determine the projected aggregate dollar volume of sales between 4/1/09 and 9/30/09 to be $32,332,563,584,044.

4. The rate necessary to collect the target $1,023,000,000 in fee revenues is then calculated as:
($1,023,000,000 − $190,542,394 − $8,640)÷$32,332,563,584,044 = 0.0000257467.

5. Round the result to the seventh decimal point, yielding a rate of 0.0000257000 (or $25.70 per million).

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[15] Section 31(j)(1) and Section 31(g) of the Exchange Act require the Commission to issue an order no later than April 30, 2009, adjusting the fee rates applicable under Sections 31(b) and (c) for fiscal 2010. These fee rates for fiscal 2010 will be effective on the later of October 1, 2009 or thirty days after the date of enactment of the Commission's regular appropriation for fiscal 2010.

[16] 15 U.S.C. 78ee.

[17] The value 1.016 has been rounded. All computations are done with the unrounded value.

Table A. Estimation of baseline of the aggregate dollar amount of sales.
(Methodology developed in consultation with the Office of Management and Budget and the Congressional Budget Office.)

Fee rate calculation.

a. Baseline estimate of the aggregate dollar amount of sales, 10/1/08 to 3/31/09 ($Millions)	34,025,427
b. Baseline estimate of the aggregate dollar amount of sales, 4/1/09 to 9/30/09 ($Millions)	32,332,564
c. Estimated collections in assessments on security futures products in FY 2009 ($Millions)	0.009
d. Implied fee rate (($1,023,000,000 - 0.0000056*a - c)/b)	$25.70

Data

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Dollar Amount of Sales	(D) Average Daily Dollar Amount of Sales (ADS)	(E) Change in LN of ADS	(F) Forecast ADS	(G) Forecast Aggregate Dollar Amount of Sales
Jan-99	19	1,884,555,055,910	99,187,108,206	-		
Feb-99	19	1,656,058,202,765	87,160,958,040	-0.129		
Mar-99	23	1,908,967,664,074	82,998,594,090	-0.049		
Apr-99	21	2,177,601,770,622	103,695,322,411	0.223		
May-99	20	1,784,400,906,987	89,220,045,349	-0.150		
Jun-99	22	1,697,339,227,503	77,151,783,068	-0.145		
Jul-99	21	1,767,035,098,986	84,144,528,523	0.087		
Aug-99	22	1,692,907,150,726	76,950,325,033	-0.089		
Sep-99	21	1,730,505,881,178	82,405,041,961	0.068		
Oct-99	21	2,017,474,765,542	96,070,226,931	0.153		
Nov-99	21	2,348,374,009,334	111,827,333,778	0.152		
Dec-99	22	2,686,788,531,991	122,126,751,454	0.088		
Jan-00	20	3,057,831,397,113	152,891,569,856	0.225		
Feb-00	20	2,973,119,888,063	148,655,994,403	-0.028		
Mar-00	23	4,135,152,366,234	179,789,233,315	0.190		
Apr-00	19	3,174,694,525,687	167,089,185,562	-0.073		
May-00	22	2,649,273,207,318	120,421,509,424	-0.328		
Jun-00	22	2,883,513,997,781	131,068,818,081	0.085		
Jul-00	20	2,804,753,395,361	140,237,669,768	0.068		
Aug-00	23	2,720,788,395,832	118,295,147,645	-0.170		
Sep-00	20	2,930,188,809,012	146,509,440,451	0.214		
Oct-00	22	3,485,926,307,727	158,451,195,806	0.078		
Nov-00	21	2,795,778,876,887	133,132,327,471	-0.174		
Dec-00	20	2,809,917,349,851	140,495,867,493	0.054		
Jan-01	21	3,143,501,125,244	149,690,529,774	0.063		
Feb-01	19	2,372,420,523,286	124,864,238,068	-0.181		
Mar-01	22	2,554,419,085,113	116,109,958,414	-0.073		
Apr-01	20	2,324,349,507,745	116,217,475,387	0.001		
May-01	22	2,353,179,388,303	106,962,699,468	-0.083		
Jun-01	21	2,111,922,113,236	100,567,719,678	-0.062		
Jul-01	21	2,004,384,034,554	95,446,858,788	-0.052		
Aug-01	23	1,803,565,337,795	78,415,884,252	-0.197		
Sep-01	15	1,573,484,946,383	104,898,996,426	0.291		
Oct-01	23	2,147,238,873,044	93,358,211,871	-0.117		
Nov-01	21	1,939,427,217,518	92,353,677,025	-0.011		
Dec-01	20	1,921,098,738,113	96,054,936,906	0.039		
Jan-02	21	2,149,243,312,432	102,344,919,640	0.063		
Feb-02	19	1,928,830,595,585	101,517,399,768	-0.008		
Mar-02	20	2,002,216,374,514	100,110,818,726	-0.014		
Apr-02	22	2,062,101,866,506	93,731,903,023	-0.066		
May-02	22	1,985,859,756,557	90,266,352,571	-0.038		
Jun-02	20	1,882,185,380,609	94,109,269,030	0.042		
Jul-02	22	2,349,564,490,189	106,798,385,918	0.126		
Aug-02	22	1,793,429,904,079	81,519,541,095	-0.270		
Sep-02	20	1,518,944,367,204	75,947,218,360	-0.071		
Oct-02	23	2,127,874,947,972	92,516,302,086	0.197		
Nov-02	20	1,780,816,458,122	89,040,822,906	-0.038		
Dec-02	21	1,561,092,215,646	74,337,724,555	-0.180		

Jan-03	21	1,723,698,830,414	82,080,896,686	0.099		
Feb-03	19	1,411,722,405,357	74,301,179,229	-0.100		
Mar-03	21	1,699,581,267,718	80,932,441,320	0.085		
Apr-03	21	1,759,751,025,279	83,797,667,870	0.035		
May-03	21	1,871,390,985,678	89,113,856,461	0.062		
Jun-03	21	2,122,225,077,345	101,058,337,016	0.126		
Jul-03	22	2,100,812,973,956	95,491,498,816	-0.057		
Aug-03	21	1,766,527,686,224	84,120,366,011	-0.127		
Sep-03	21	2,063,584,421,939	98,265,924,854	0.155		
Oct-03	23	2,331,850,083,022	101,384,786,218	0.031		
Nov-03	19	1,903,726,129,859	100,196,112,098	-0.012		
Dec-03	22	2,066,530,151,383	93,933,188,699	-0.065		
Jan-04	20	2,390,942,905,678	119,547,145,284	0.241		
Feb-04	19	2,177,765,594,701	114,619,241,826	-0.042		
Mar-04	23	2,613,808,754,550	113,643,858,893	-0.009		
Apr-04	21	2,418,663,760,191	115,174,464,771	0.013		
May-04	20	2,259,243,404,459	112,962,170,223	-0.019		
Jun-04	21	2,112,826,072,876	100,610,765,375	-0.116		
Jul-04	21	2,209,808,376,565	105,228,970,313	0.045		
Aug-04	22	2,033,343,354,640	92,424,697,938	-0.130		
Sep-04	21	1,993,803,487,749	94,943,023,226	0.027		
Oct-04	21	2,414,599,088,108	114,980,908,958	0.191		
Nov-04	21	2,577,513,374,160	122,738,732,103	0.065		
Dec-04	22	2,673,532,981,863	121,524,226,448	-0.010		
Jan-05	20	2,581,847,200,448	129,092,360,022	0.060		
Feb-05	19	2,532,202,408,589	133,273,810,978	0.032		
Mar-05	22	3,030,474,897,226	137,748,858,965	0.033		
Apr-05	21	2,906,386,944,434	138,399,378,306	0.005		
May-05	21	2,697,414,503,460	128,448,309,689	-0.075		
Jun-05	22	2,825,962,273,624	128,452,830,619	0.000		
Jul-05	20	2,604,021,263,875	130,201,063,194	0.014		
Aug-05	23	2,846,115,585,965	123,744,155,912	-0.051		
Sep-05	21	3,009,640,645,370	143,316,221,208	0.147		
Oct-05	21	3,279,847,331,057	156,183,206,241	0.086		
Nov-05	21	3,163,453,821,548	150,640,658,169	-0.036		
Dec-05	21	3,090,212,715,561	147,152,986,455	-0.023		
Jan-06	20	3,573,372,724,766	178,668,636,238	0.194		
Feb-06	19	3,314,259,849,456	174,434,728,919	-0.024		
Mar-06	23	3,807,974,821,564	165,564,122,677	-0.052		
Apr-06	19	3,257,478,138,851	171,446,217,834	0.035		
May-06	22	4,206,447,844,451	191,202,174,748	0.109		
Jun-06	22	3,995,113,357,316	181,596,061,696	-0.052		
Jul-06	20	3,339,658,009,357	166,982,900,468	-0.084		
Aug-06	23	3,410,187,280,845	148,269,012,211	-0.119		
Sep-06	20	3,407,409,863,673	170,370,493,184	0.139		
Oct-06	22	3,980,070,216,912	180,912,282,587	0.060		
Nov-06	21	3,933,474,986,969	187,308,332,713	0.035		
Dec-06	20	3,715,146,848,695	185,757,342,435	-0.008		
Jan-07	20	4,263,986,570,973	213,199,328,549	0.138		
Feb-07	19	3,946,799,860,532	207,726,308,449	-0.026		
Mar-07	22	5,245,051,744,090	238,411,442,913	0.138		
Apr-07	20	4,274,665,072,437	213,733,253,622	-0.109		
May-07	22	5,172,568,357,522	235,116,743,524	0.095		
Jun-07	21	5,586,337,010,802	266,016,048,133	0.123		
Jul-07	21	5,938,330,480,139	282,777,641,911	0.061		
Aug-07	23	7,713,644,229,032	335,375,836,045	0.171		
Sep-07	19	4,805,676,596,099	252,930,347,163	-0.282		
Oct-07	23	6,499,651,716,225	282,593,552,879	0.111		
Nov-07	21	7,176,290,763,989	341,728,131,619	0.190		
Dec-07	20	5,512,903,594,564	275,645,179,728	-0.215		
Jan-08	21	7,997,242,071,529	380,821,051,025	0.323		
Feb-08	20	6,139,080,448,887	306,954,022,444	-0.216		
Mar-08	20	6,767,852,332,381	338,392,616,619	0.098		
Apr-08	22	6,150,017,772,735	279,546,262,397	-0.191		

May-08	21	6,080,169,766,807	289,531,893,657	0.035		
Jun-08	21	6,962,199,302,412	331,533,300,115	0.135		
Jul-08	22	8,104,256,787,805	368,375,308,537	0.105		
Aug-08	21	6,106,057,711,009	290,764,652,905	-0.237		
Sep-08	21	8,156,991,919,103	388,428,186,624	0.290		
Oct-08	23	8,644,538,213,244	375,849,487,532	-0.033		
Nov-08	19	5,727,999,173,523	301,473,640,712	-0.221		
Dec-08	22	5,176,041,317,640	235,274,605,347	-0.248		
Jan-09	20	4,670,179,599,178	233,508,979,959	-0.008		
Feb-09	19				237,184,035,788	4,506,496,679,977
Mar-09	22				240,916,931,086	5,300,172,483,900
Apr-09	21				244,708,576,153	5,138,880,099,223
May-09	20				248,559,895,616	4,971,197,912,328
Jun-09	22				252,471,828,654	5,554,380,230,393
Jul-09	22				256,445,329,227	5,641,797,242,997
Aug-09	21				260,481,366,309	5,470,108,692,492
Sep-09	21				264,580,924,124	5,556,199,406,610

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59469; File No. SR–NYSE–2009–19]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 300.10T To Provide a Grace Period Under That Rule for NYSE Alternext U.S. LLC Member Organizations That Have Applied for a Trading License to Comply With Certain Exchange Rules

February 27, 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 24, 2009, the New York Stock Exchange, LLC (''NYSE'' 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 NYSE. NYSE 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 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 Rule 300.10T to provide a grace period under that rule for NYSE Alternext US LLC member organizations that have applied for a trading license to comply with certain Exchange rules.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend NYSE Rule 300.10T to provide for a six-month grace period for NYSE Alternext US LLC (''NYSE Alternext'') member organizations that have applied for, but not received a trading license, to comply with certain Exchange rules. The Exchange adopted Rule 300.10T to provide a grace period for certain NYSE Alternext member organizations seeking to trade equities at the Exchange to comply with the Exchange membership requirements. The proposed amendment seeks to clarify the rule to reflect the original purpose of the provision. The Exchange is submitting this proposed filing to conform NYSE Rule 300.10T to corresponding changes to Rule 300.10T—NYSE Alternext Equities, as proposed by NYSE Alternext.[4]

Background of Merger

As described more fully in a filing submitted by the American Stock Exchange LLC (''Amex'') (the ''Merger filing''),[5] NYSE Euronext acquired The Amex Membership Corporation (''AMC'') pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the ''Merger''). In connection with the Merger, Amex, a subsidiary of AMC, became a subsidiary of NYSE Euronext and was renamed NYSE Alternext U.S. LLC, and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the ''Act'').[6] The effective date of the Merger was October 1, 2008.

As described more fully in the Merger filing, in connection with the Mergers, Amex demutualized by separating all trading rights from equity ownership in Amex. As part of the demutualization, all trading rights appurtenant to the Amex Regular Members' memberships or Options Principal Members' (''OPM'') memberships were cancelled. Immediately following the closing of the Mergers, those persons and entities that were authorized to trade on the Amex before the closing of the Mergers were deemed to have satisfied applicable qualification requirements necessary to trade in NYSE Alternext's demutualized marketplace and were issued a permit at no cost to trade on NYSE Alternext (''86 Trinity Permit''). The 86 Trinity Permit authorizes owners, lessees or nominees of Amex Regular Members or OPMs, Amex limited trading permit holders, and Amex associate members who were

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* SR–NYSEALTR–2009–16 (formally submitted on February 24, 2009). Because NYSE Alternext's perspective of its member organizations differs from those of the NYSE, the rule text proposed by the NYSE is not identical to that proposed by NYSE Alternext, but is the same in substance.

[5] *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR–Amex 2008–62) (approving the Merger).

[6] 15 U.S.C. 78f.