

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-NASDAQ-2010-049, and should be submitted on or before May 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61923; File No. SR-NYSE-2010-33]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend From May 30, 2010 Until June 30, 2010 the Final Date by Which the Exchange Must Terminate Its Affiliation With NYFIX Securities Corporation

April 15, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on April 14, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to extend from May 30, 2010 until June 30, 2010 the final date by which it must terminate its affiliation with NYFIX Securities Corporation ("NYFIX Securities"), a registered broker-dealer subsidiary of NYFIX, Inc., ("NYFIX"). On November 30, 2009, NYFIX became an indirect wholly-owned subsidiary of the Exchange's parent company, NYSE Euronext. There is no proposed rule text.

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

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

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

###### 1. Purpose

On November 9, 2009, the Commission approved a proposed rule change by the Exchange in connection with the acquisition of NYFIX, a Delaware corporation, by a wholly-owned subsidiary of NYSE Euronext, the Exchange's parent company. The Commission's approving release granted permission for the Exchange to be affiliated with two registered broker-dealer subsidiaries of NYFIX for a period not to exceed six months and subject to certain limitations and obligations.<sup>3</sup> The two subsidiaries were NYFIX Millennium L.L.C. ("NYFIX Millennium") and NYFIX Securities Corporation ("NYFIX Securities"). The NYFIX acquisition closed on November 30, 2009, marking the beginning of the Exchange's affiliation with NYFIX Millennium and NYFIX Securities, which means that the final date by which the Exchange must terminate its affiliation with these two broker-dealers is May 30, 2010.

The Exchange has already terminated its affiliation with NYFIX Millennium and is in the process of terminating its affiliation with NYFIX Securities. While the Exchange anticipates that the transaction by which its affiliation with NYFIX Securities will be terminated should close by May 30, the Exchange believes that some additional flexibility with respect to timing is desirable in the event that issues unexpectedly arise in connection with the aforementioned transaction. Consequently, the Exchange is proposing a short extension of the date by which it must end its affiliation with NYFIX Securities from May 30,

2010 to June 30, 2010. The Exchange believes that this one-month extension will allow sufficient time to deal with any unexpected delays that might occur in connection with the transaction that is expected to terminate the Exchange's affiliation with NYFIX Securities.

In the NYFIX Approval Order, as a requirement for its approval of the Exchange's temporary affiliation with NYFIX Millennium and NYFIX Securities, the Commission listed a series of terms and conditions that must be adhered to during the period of said affiliation.<sup>4</sup> The purpose of these terms and conditions is to "address concerns regarding \* \* \* (1) The potential for conflicts of interest where an exchange is affiliated with a broker-dealer conducting an order routing business that may interact with the Exchange itself, and (2) the potential for informational advantages that could place such an affiliated broker-dealer at a competitive advantage in comparison with other non-affiliated broker-dealers."<sup>5</sup> The Exchange represents that all of these terms and conditions will continue to be applicable with respect to NYFIX Securities during the extension period being proposed herein until such time as the Exchange's affiliation with NYFIX Securities is terminated.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>6</sup> of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(1)<sup>8</sup> of the Act, in particular, in that it enables the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this proposed rule change is also consistent with, and furthers the objectives of Section 6(b)(5)<sup>9</sup> of the Act, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open

<sup>4</sup> See NYFIX Approval Order, 74 FR at 59295-59296 (paragraphs numbered (1)-(6), including subparagraphs (a)-(f) thereunder).

<sup>5</sup> *Id.* at 59295.

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

<sup>7</sup> 15 U.S.C. 78a.

<sup>8</sup> 15 U.S.C. 78f(b)(1).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>3</sup> Securities Exchange Act Release No. 60969 (November 9, 2009), 74 FR 59294 (November 17, 2009) (order approving File No. SR-NYSE-2009-96, as modified by Amendment No. 2 thereto) ("NYFIX Approval Order").

<sup>10</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.

market and a national market system and, in general, to protect investors and the public interest.

In the NYFIX Approval Order, the Commission determined that the proposed temporary affiliation between the Exchange and the two NYFIX broker-dealer subsidiaries, subject to the terms and conditions described above, was consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, was consistent with Section 6(b)(5) of the Act.<sup>10</sup> With respect to the Commission's expressed concerns regarding potential unfair competition and conflicts of interest when an exchange, or one of its affiliates, is the parent company of a broker-dealer that provides routing services that may be in competition with services provided by members of that exchange, the NYFIX Approval Order stated, "The Commission believes, however, that the temporary nature of the affiliation, together with the proposed terms and conditions, are reasonably designed to mitigate concern about potential unfair competition and conflicts of interest between the commercial interests of the Exchange or its affiliates, and the Exchange's regulatory responsibilities."<sup>11</sup> Because these same terms and conditions will continue to be applicable during the proposed extension period, and because that extension period, if it is utilized, will be limited to only one additional month, the Exchange believes that the current temporary affiliation between the Exchange and NYFIX Securities will continue to be consistent with the Act during the proposed extension period.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *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**

The Exchange has filed the proposed rule change pursuant to Section

19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)<sup>14</sup> of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **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-NYSE-2010-33 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii).

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2010-33. 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 Web site viewing and printing in the Commission's Public Reference Room 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-NYSE-2010-33 and should be submitted on or before May 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61922; File No. SR-DTC-2010-07]

### **Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Enhance its Existing Processing Relating to End of Day Liquidity**

**DATE:** April 15, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

<sup>10</sup> See NYFIX Approval Order, 74 FR at 59295.

<sup>11</sup> *Id.* at 59296.