

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-59118; File No. SR-NYSE-2008-129)

December 18, 2008

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Minimum Price Variation of \$0.01 for Orders and Quotations in Bonds Admitted to Dealings on NYSE

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 December 16, 2008, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 amend Exchange Rule 86 (NYSE Bonds <sup>SM</sup>) to establish the minimum price variation of \$0.01 for orders and quotations in bonds admitted to dealings on NYSE .

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.

---

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

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

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

1. Purpose

The Exchange seeks to amend Exchange Rule 86 (NYSE Bonds<sup>SM</sup>) to establish the minimum price variation of \$0.01 for orders and quotations in bonds admitted to dealings through the NYSE Bond System.

NYSE Bonds is the Exchange's electronic system for receiving, processing, executing and reporting bids, offers and executions in bonds. Rule 86 (NYSE Bonds<sup>SM</sup>) prescribes how bonds are traded through the NYSE Bonds trading platform, including the receipt, execution and reporting of bond transactions. Rule 86 was approved by the Commission in March 2007.<sup>3</sup>

Rule 86(f) provides that NYSE Bonds will accept bids and offers in bonds priced to three decimal places. The Exchange proposes to amend Rule 86(f) to provide that NYSE Bonds will accept bids and offers in bonds price to two decimal places.

The Exchange believes this change will place its bond trading on a more competitive basis with how bonds are traded in other systems. Since the implementation of the new trading system for NYSE bonds, the Exchange has sought to increase the liquidity on its bond trading system. The Exchange believes that some of its potential liquidity providers, e.g., retail customers, have been reluctant to place orders representing such liquidity when there is a high possibility that their orders can be “stepped ahead” by other orders that “improve” the price by a sub-penny. To address this, the Exchange believes that a two decimal minimum price variation will act to level the playing field among its bond customers, and serve to make the Exchange bond market more attractive to a retail customer base.

---

<sup>3</sup> See Securities Exchange Act Release No. 55496 (March 20, 2007), 72 FR 14631 (March 28, 2007) (approving SR-NYSE-2006-37).

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Alternext Exchange (formerly the American Stock Exchange). These changes are described in SR-NYSEALTR-2008-13.<sup>4</sup>

## 2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act")<sup>5</sup> for this proposed rule change is the requirement under Section 6(b)(5)<sup>6</sup> that an Exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>7</sup> in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer. As outlined above, the Exchange believes that the instant proposal is in keeping with these principles in that it seeks to amend NYSE Rule 86 to place its bond trading system on a more competitive basis with other markets trading bonds.

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

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

---

<sup>4</sup> See SR-NYSEALTR 2008-13 (formally submitted on December 16, 2008).

<sup>5</sup> 15 U.S.C. 78a.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78k-1(a)(1).

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

No written comments were either 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 represented that the proposed rule change qualifies for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder<sup>9</sup> because it: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 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.<sup>10</sup>

The Exchange has requested that the Commission waive the 30-day operative delay, so that the proposed rule change may become operative upon filing. The Commission hereby grants the Exchange's request and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>11</sup> As a result of this action, the Exchange will be able to implement without undue delay a proposed rule change that reduces the likelihood of quotations or orders on NYSE Bonds from being stepped ahead of by an insignificant amount.

---

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 Commission has determined to waive the five-day pre-filing notice requirement in this case.

<sup>11</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

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-2008-129 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-NYSE-2008-129. 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 10:00 a.m. and 3:00 p.m. Copies of the 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-2008-129 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.<sup>12</sup>

Florence E. Harmon  
Acting Secretary

---

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