

SECURITIES AND EXCHANGE COMMISSION
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February 19, 2016

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Listed Company Manual to Adopt a Requirement that Listed Foreign Private Issuers Must, At a Minimum, Submit a Form 6-K to the Securities and Exchange Commission Containing Semi-Annual Unaudited Financial Information

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”),² and Rule 19b-4 thereunder,³ notice is hereby given that on February 5, 2016, 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 the NYSE Listed Company Manual (the “Manual”) to adopt a requirement that listed foreign private issuers must, at a minimum, submit a Form 6-K to the Securities and Exchange Commission (“SEC”) containing semi-annual unaudited financial information.⁴ The proposed rule change is available on the Exchange’s website at

www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See footnote 6 below for a description of information that foreign private issuers are currently required to furnish to the SEC on a Form 6-K under the provisions of General Instruction B to Form 6-K.

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

The Exchange proposes to amend the Manual to adopt a requirement that listed foreign private issuers must, at a minimum, submit a Form 6-K to the SEC containing semi-annual unaudited financial information.

Any listed company that is a domestic issuer is required by SEC rules to file a quarterly report on Form 10-Q within a specified period after the end of each of the company's first, second and third fiscal quarters. The Form 10-Q contains unaudited financial information with respect to the most recently completed fiscal quarter. However, listed companies that are foreign private issuers⁵ are not subject to any comparable SEC requirement with respect to interim

⁵ Exchange Act Rule 3b-4 defines a foreign private issuer as any issuer incorporated or organized under the laws of a foreign country, except an issuer meeting both of the following conditions: (i) more than 50 percent of the outstanding voting securities of the issuer are directly or indirectly held of record by residents of the United States; and (ii) any one of the following: (a) the majority of the executive officers or directors of the issuer are United States citizens or residents; or (b) more than 50 percent of the assets of the issuer are located in the United States; or (c) the business of the issuer is administered principally in the United States.

financial reporting.⁶ The Exchange understands that financial reporting practices in other countries may differ from those in the United States and that it is often not the case that foreign companies issue interim financial information on a quarterly basis. However, it is the Exchange's experience that almost all listed foreign private issuers issue interim financial information on at least a semi-annual basis. The Exchange believes that this practice is essential for the protection of investors, as annual financial disclosure is too infrequent to enable investors to make informed investment decisions, especially as that information ages in the latter part of the disclosure cycle.

Given the importance of the practice of foreign private issuer listed companies reporting mid-year results, the Exchange believes that it is desirable to make this practice mandatory. Doing so will ensure that the practice is uniform among all listed foreign private issuers and also enables the Exchange to apply its compliance procedures for companies that are late in their periodic reporting to listed foreign private issuers that fail to disclose semi-annual financial information on a timely basis.

⁶ The Exchange notes that General Instruction B to Form 6-K requires foreign private issuers to furnish on a Form 6-K whatever information, not required to be furnished on Form 40-F or previously furnished, such issuer (i) makes or is required to make public pursuant to the law of the jurisdiction of its domicile or in which it is incorporated or organized, or (ii) files or is required to file with a stock exchange on which its securities are traded and which was made public by that exchange, or (iii) distributes or is required to distribute to its security holders. The information required to be furnished pursuant to (i), (ii) or (iii) above is that which is material with respect to the issuer and its subsidiaries concerning: changes in business; changes in management or control; acquisitions or dispositions of assets; bankruptcy or receivership; changes in registrant's certifying accountants; the financial condition and results of operations; material legal proceedings; changes in securities or in the security for registered securities; defaults upon senior securities; material increases or decreases in the amount outstanding of securities or indebtedness; the results of the submission of matters to a vote of security holders; transactions with directors, officers or principal security holders; the granting of options or payment of other compensation to directors or officers; and any other information which the registrant deems of material importance to security holders. As a result of (i) through (iii) above, foreign private issuers could be required to provide the information required under proposed Section 203.03 of the Manual more frequently than semi-annually.

Consequently, the Exchange proposes to adopt new Section 203.03 of the Manual which would provide that each listed foreign private issuer must, at a minimum, submit to the SEC a Form 6-K that includes (i) an interim balance sheet as of the end of its second fiscal quarter and (ii) a semi-annual income statement that covers its first two fiscal quarters. This Form 6-K would be required to be submitted no later than six months following the end of the company's second fiscal quarter. The financial information included in the Form 6-K would be required to be presented in English, but would not be required to be reconciled to U.S. GAAP. The Exchange's intention in adopting proposed Section 203.03 is solely to establish a minimum interim reporting regime applicable to all listed foreign private issuers. The Exchange is not seeking to discourage companies from providing more expansive or more frequent interim financial information and proposed Section 203.03 would not relieve companies of the obligation to comply with any reporting obligations they may have under the requirements of Form 6-K or home country law or regulation. In addition, the Exchange proposes to amend Section 802.01E of the Manual to subject listed foreign private issuers that have not timely filed the required Form 6-K to the same compliance procedures as are applied to listed companies that are late in filing their annual report or Form 10-Q. A failure to file the required Form 6-K within the period specified by proposed Section 203.03 would constitute a Late Filing Delinquency under Section 802.01E. As with any other Late Filing Delinquency under that rule, a company that was delayed in filing its Form 6-K would have an initial six months compliance period within which to file the Form 6-K and any subsequently due Form 20-F or Form 6-K. If the company did not file all required filings during that initial six month period, Exchange staff would have the discretion to provide an additional compliance period of up to six months. Any company that failed to become timely with its filing obligations within the compliance periods provided under the rule

(including, in the case of a company that receives the maximum 12-month cure period, the Form 6-K including the semi-annual data for the first six months of the subsequent fiscal year) would be subject to delisting.

The Exchange proposes to make Section 203.03 effective beginning with any fiscal year beginning on or after July 1, 2015. This means that the earliest semi-annual period with respect to which a company would be required to furnish a Form 6-K under the proposed rule would have ended on December 31, 2015.⁷

The Exchange also proposes to amend Section 103.00 of the Manual to clarify that, notwithstanding the provision in that section that allows listed foreign private issuers to follow home country practice in lieu of complying with the Exchange's interim reporting requirements applicable to domestic companies, all listed foreign private issuers will be required to disclose interim financial information in a Form 6-K on a semi-annual basis in compliance with proposed Section 203.03.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)⁸ of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,⁹ in particular in that it is 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

⁷ The Commission notes that this means that the any listed company would have at least until June 30, 2016 to file the Form 6-K, with the required semi-annual data, under the new rule.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed amendment is consistent with the investor protection objectives of Section 6(b)(5) because it is designed to ensure that listed companies provide timely financial information that is necessary to enable investors to make informed investment decisions. The Exchange believes that the proposed amendment does not unfairly discriminate among issuers, as, while it establishes a semi-annual reporting requirement for foreign private issuers that is different from the quarterly reporting to which domestic issuers are subject, this difference is consistent with the differential requirements imposed by the SEC. In addition, while a small number of companies will have less than six months from the date of effectiveness of the proposed rule to submit their first required semi-annual report, the Exchange does not believe that this is unfairly discriminatory as the period available to those companies will not be significantly less than six months and will be adequate to enable them to meet the proposed [sic]

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 purpose of the Act. The proposed rule change is designed to mandate that foreign private issuer listed companies must, at a minimum, provide semi-annual financial information. As almost all NYSE-listed foreign private issuers already provide this information and Nasdaq listed companies are already subject to a comparable rule, the Exchange does not expect the rule change to have any significant impact on competition.

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 Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ 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) 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) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that requiring semi-annual reporting of summary financial information by listed foreign private issuers is consistent with the protection of investors and the public interest since it will ensure that investors have access to information that is necessary for them to make informed decisions about investments in those companies. The Commission believes that the proposed rule change will not be unduly burdensome on foreign private issuers as the Exchange states in its filing that most, if not all, effected companies already provide such information on a voluntary basis. Therefore, the Commission believes that the new rule should

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

help to ensure that investors will have, or continue to have, the necessary information to make informed investment decisions for all listed foreign private issuers. In addition, concerning the proposed changes on continued listing for filing delinquencies under Section 802.01E of the Manual, treating Exchange listed foreign private issuers that fail to timely file semi-annual reports under the new rule similarly to listed domestic issuers that fail to file timely interim reports will help to ensure that investors have information necessary to assess the company and support continued trading on the Exchange.¹⁴ Based on the above, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁵

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁶ of the Act to determine whether the proposed rule change should be approved or 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:

¹⁴ See NYSE Listed Company Manual Section 802.01E.

¹⁵ 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).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

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-NYSE-2016-12 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-2016-12. 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 website (<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 website viewing and printing 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-2016-12 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.¹⁷

Brent J. Fields
Secretary

¹⁷ 17 CFR 200.30-3(a)(12).