

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77074; File No. SR-NYSEMKT-2016-14)

February 5, 2016

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Supplementary Material .10 to Rule 103B – Equities to Provide that Any Senior Official of a Listed Company with the Rank of Corporate Secretary or Higher can Sign the Written Request of a Listed Company Seeking to Change Its Designated Market Maker Unit

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 January 27, 2016, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (“SEC” or “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 Supplementary Material .10 to Rule 103B – Equities to provide that any senior official of a listed company with the rank of Corporate Secretary or higher can sign the written request of a listed company seeking to change its designated market maker (“DMM”) unit. 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 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Supplementary Material .10 to Rule 103B – Equities to provide that any senior official of a listed company with the rank of Corporate Secretary or higher can sign the written request of a listed company seeking to change its DMM unit required by that provision.

Supplementary Material .10 to Rule 103B – Equities establishes a process to be followed by any listed company wishing to change to a new DMM unit. The rule provides that a listed company wishing to change DMM units must file with the Corporate Secretary of the Exchange a written notice (the “Issuer Notice”), signed by the company's chief executive officer. The Issuer Notice is required to indicate the specific issues prompting this request. It has been the Exchange's experience that companies have occasionally found it burdensome to obtain the signature of their CEO for purposes of submitting an Issuer Notice and that this requirement has caused an undesirable delay when companies are making their submissions. We also note that this requirement is inconsistent with the provisions of Rule 103B – Equities in relation to an issuer's initial selection of a DMM, which provides that any senior official with the rank of

Corporate Secretary or higher (or, in the case of a structured product listing, a senior officer of the issuer) can sign the notice in which a listed company informs the Exchange of its initial selection of a DMM unit. It has been the Exchange's experience that a senior officer other than the chief executive officer often manages the DMM relationship on behalf of the listed company and has authority to take action in relation to that relationship. We also note that the NYSE recently amended its parallel provision (Section 806.01 of the NYSE's Listed Company Manual) to address this issue by providing that an Issuer Notice may be signed by an official of the listed company with the rank of Corporate Secretary or higher.³ Consequently, we propose to amend Supplementary Material .10 to Rule 103B – Equities to make the same change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)⁴ of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,⁵ 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 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 are able to expeditiously change their DMM unit when senior

³ See Securities Exchange Act Release No. 76591 (December 8, 2015), 80 FR 77392 (December 14, 2015) (SR-NYSE-2015-63).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

management of the listed company believes it is desirable to do so. An effective relationship between the listed company and the DMM is important to the maintenance of a high quality market for the company's securities and is therefore in the interests of investors.

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 permit listed companies to apply for a change in the DMM unit allocated to their securities on the basis of a notice signed by any officer with the title of Corporate Secretary or higher rather than requiring that it be signed in all cases by the CEO, as is currently the case. The proposed amendment simply provides more flexibility in providing the required paperwork and conforms the signing requirements with respect to the commencement and severing of a listed company's relationship with its DMM unit, but does not change any of the substantive rights of the listed company or the DMM unit in any way. As such, 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 Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ 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 for 30 days from the date on which it was

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

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 Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ 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 proposed rule change may become operative immediately. The Exchange believes that providing greater flexibility in the preparation of the paperwork needed to request a change of DMM unit is in the interests of investors as it is important to the maintenance of a high quality market for an issuer's stock that the issuer has a good relationship with its DMM. As the Exchange notes in its filing, the proposal would better conform the process for changing a DMM to that which is used for initially selecting a DMM. In particular, the officer's signature that would be required to change a company's DMM must be that of a senior official at the company with a rank of Corporate Secretary or above. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

with the protection of investors and the public interest. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹²

At any time within 60 days of the filing of the 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 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:

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-NYSEMKT-2016-14 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-NYSEMKT-2016-14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

¹² For 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).

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-NYSEMKT-2016-14, 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.¹³

Brent J. Fields
Secretary

¹³ 17 CFR 200.30-3(a)(12), (59).