

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76323; File No. SR-NYSE-2015-02)

October 30, 2015

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Disapprove Proposed Rule Change, as Modified by Amendment No. 1, Amending Sections 312.03(b) and 312.04 of the NYSE Listed Company Manual to Exempt Early Stage Companies From Having to Obtain Shareholder Approval Before Issuing Shares for Cash to Related Parties, Affiliates of Related Parties or Entities In Which A Related Party has A Substantial Interest

On April 16, 2015, New York Stock Exchange (“NYSE”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to amend Sections 312.03(b) and 312.04 of the NYSE Listed Company Manual to exempt early stage companies from having to obtain shareholder approval before issuing shares for cash to related parties, affiliates of related parties or entities in which a related party has a substantial interest. The proposed rule change was published for comment in the Federal Register on May 6, 2015.<sup>3</sup> The Commission received no comment letters in response to the publication of the Notice. On June 18, 2015, the Commission designated a longer period for Commission action on the proposed rule change, until August 4, 2015.<sup>4</sup> On August 4, 2014, the Commission initiated proceedings under Section 19(b)(2)(B) of the Act<sup>5</sup> to determine whether to approve or disapprove the

---

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

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

<sup>3</sup> See Securities Exchange Act Release No. 74849 (April 30, 2015), 80 FR 26118 (“Notice”).

<sup>4</sup> See Securities Exchange Act Release No. 75248 (June 18, 2015), 80 FR 36385 (June 24, 2015).

<sup>5</sup> 15 U.S.C. 78s(b)(2)(B).

proposed rule change.<sup>6</sup> On August 31, 2015, in response to the Order Instituting Proceedings, the Commission received a comment letter from the Exchange as well as an Amendment No. 1 to the proposed rule change.<sup>7</sup> The Commission has received two other comment letters in response to the Order Instituting Proceedings.<sup>8</sup>

Section 19(b)(2) of the Act<sup>9</sup> provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change.<sup>10</sup> The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.<sup>11</sup> The proposed rule change was published for comment in the Federal Register on May 6, 2015. November 2,

---

<sup>6</sup> See Securities Exchange Act Release No. 75599 (August 4, 2015), 80 FR 47978 (August 10, 2015) (“Order Instituting Proceedings”).

<sup>7</sup> See letter to Brent J. Fields, Secretary, Commission from Clare F. Saperstein, Associate General Counsel, New York Stock Exchange, dated August 31, 2015 and Amendment No. 1 to the proposed rule change dated August 31, 2015. In Amendment No. 1 the Exchange stated that it believed there was a potential ambiguity in the proposed rule language submitted as part of the original proposal. Amendment No. 1 amends the original proposed rule language to clarify that the proposed exemption from shareholder approval transactions involving the sale of stock for cash by an early stage company applies not only to a related party, as originally proposed, but also to a subsidiary, affiliate or other closely-related person of a related party; or any company or entity in which a related party has a substantial direct or indirect interest.

<sup>8</sup> See memorandum to the Commission from Rick. A. Fleming, Office of the Investor Advocate, Commission, dated October 16, 2015; and public comment email from Suzanne Shatto, dated October 16, 2015.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B)(ii)(I).

<sup>11</sup> 15 U.S.C. 78s(b)(2)(B)(ii)(II).

2015 is 180 days from that date, and January 1, 2016 (which is a Federal holiday) is an additional 60 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the comment letters and take action on the Exchange's proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> designates December 31, 2015, as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR-NYSE-2015-02).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Jill M. Peterson  
Assistant Secretary

---

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(31).