

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60273; File No. SR-NYSE-2009-64)

July 9, 2009

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC to Extend its Suspension of its Dollar Stock Price Continued Listing Standard to July 31, 2009

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 2, 2009, New York Stock Exchange LLC (the “NYSE” or the “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 Exchange has designated this proposal eligible for immediate effectiveness pursuant to Rule 19b-4(f)(6)³ under the Exchange Act. 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 through July 31, 2009, the suspension of the application of its price criteria for capital and common stock set forth in Section 802.01C of the Exchange’s Listed Company Manual (the “Manual”).⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ The Commission notes that the suspension period under this filing commenced at the time that the proposed rule change was filed on July 2, 2009 and will continue through July 31, 2009.

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 these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

1. Purpose

From mid-2008 through the first quarter of 2009, the U.S. and global equities markets experienced extreme volatility and a precipitous decline in trading prices of many securities. As a consequence of these market conditions, the Exchange experienced an unusually high number (as compared to historical levels) of listed companies having stock prices that either fell below the Exchange’s \$1.00 price requirement for capital and common stock set forth in Section 802.01C of the Manual (i.e., the average closing price of their stock has fallen below \$1.00 over a consecutive 30 trading day period)(the NYSE’s “dollar price continued listing standard”).⁵ In

⁵ Section 802.01C provides that a company will be considered to be below compliance standards if the average closing price of a security as reported on the consolidated tape is less than \$1.00 over a consecutive 30 trading day period. Once notified, the company must bring its share price and average share price back above \$1.00 by six months following receipt of the notification. A company is not eligible to follow the cure procedures outlined in Sections 802.02 and 802.03 with respect to this criteria. The company must, however, notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency or be subject to suspension and delisting procedures. In the event that at the expiration of the six-month cure period, both a \$1.00 share price and a \$1.00 average share price over the preceding 30 trading days are not attained, the Exchange will commence suspension and delisting procedures. Notwithstanding the foregoing, if a company determines that, if necessary, it will cure the price condition by taking an action that will require approval of its shareholders, it

response, the Exchange suspended the application of the dollar price continued listing standard until June 30, 2009.⁶ This suspension provided temporary relief to companies in response to the extreme volatility and a precipitous decline in trading prices of many securities experienced in the U.S. and global equities markets, which the Commission had acknowledged constituted a threat to the fair and orderly functioning of the securities markets and could lead to a crisis of confidence among investors regarding the viability of companies whose stock prices have declined significantly.⁷

Since the initial suspension of the Exchange's dollar price continued listing standard, market conditions have improved somewhat and a significant number of companies have cured their noncompliance with that standard. However, major market indices have recovered only a fraction of their losses and are still significantly below the levels of the first half of 2008. Consequently, there are still a significantly larger number of listed companies that are below compliance with the dollar price continued listing standard than the historical norm. As such, the

must so inform the Exchange in the above referenced notification, must obtain the shareholder approval by no later than its next annual meeting, and must implement the action promptly thereafter. The price condition will be deemed cured if the price promptly exceeds \$1.00 per share, and the price remains above the level for at least the following 30 trading days.

⁶ See Securities Exchange Act Release No. 59510 (March 4, 2009), 74 FR 10636 (March 11, 2009)(SR-NYSE-2009-21).

⁷ See, e.g., Securities Exchange Act Release No. 58588 (September 18, 2008), 73 FR 55174 (September 24, 2008) (“The Commission is aware of the continued potential of sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Given the importance of confidence in our financial markets as a whole, we have also become concerned about sudden and unexplained declines in the prices of securities. Such price declines can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence without a fundamental underlying basis. This crisis of confidence can impair the liquidity and ultimate viability of an issuer, with potentially broad market consequences.”).

Exchange proposes to extend the period of the suspension by an additional month, through July 31, 2009. The Exchange believes that doing so will potentially enable a number of companies that are currently below compliance with the dollar price continued listing standard, but otherwise suitable for auction market trading, to regain compliance, as has been the case with a significant number of companies during the initial period of the suspension.

Under the proposed extended suspension of the Exchange's dollar price continued listing standard, companies will not be notified of new events of noncompliance with that standard during the suspension period. Companies that were in a compliance period at the time of commencement of the suspension⁸ will still be deemed to have regained compliance during the rule suspension period if, at the expiration of their respective six-month cure periods established prior to the commencement of the rule suspension, they have a \$1.00 closing share price on the last trading day of the period and a \$1.00 average share price based on the preceding 30 trading days. In addition, any company that was in a compliance period at the time of commencement of the rule suspension can return to compliance if on July 31, 2009, such company has a \$1.00 closing share price and a \$1.00 average share price based on the 30 trading days preceding the end of such month.⁹ Any company that was in a compliance period at the time of

⁸ The Exchange notes that there are not currently any companies in the Exchange's delisting appeal process whose stock is continuing to trade on the Exchange that have been sent a delisting notification for noncompliance with the dollar price continued listing standard. The Exchange also notes that it is continuing to identify companies in a compliance period as below compliance with the dollar price continued listing standard, including by continuing to append an indicator to the company's stock ticker to identify it as being below compliance with that standard and including the company on a list of companies that are below compliance with that standard posted to the Exchange's website, unless the company regains compliance during the suspension. A company will continue to be subject to delisting for failure to comply with other listing requirements.

⁹ A company will continue to be subject to delisting for failure to comply with other listing requirements.

commencement of the rule suspension that does not regain compliance during the suspension period will recommence its compliance period upon reinstatement of the dollar price continued listing standard and receive the remaining balance of its compliance period.¹⁰ Following the temporary rule suspension, any new events of noncompliance with the Exchange's dollar price continued listing standard will be determined based on a consecutive 30 trading-day period commencing on August 1, 2009.

The proposed extended suspension of the Exchange's dollar price continued listing standard will enable companies to remain listed in the current difficult market conditions with the prospect of a future recovery in their stock prices enabling them to comply with the applicable listing requirements upon the standard's reinstatement. During the period between now and July 31, 2009, the Exchange will consider whether it is appropriate to propose further revisions to these requirements.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)¹¹ of the Securities Exchange Act of 1934 (the "Act"),¹² in general, and furthers the objectives of Section 6(b)(5)¹³ of the Act 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

¹⁰ For example, if a company was four months into its compliance period for noncompliance with the dollar price continued listing standard when the suspension started and the company does not regain compliance during the suspension, the company will have an additional two months starting on August 1, 2009, to regain compliance.

¹¹ 15 U.S.C. 78f(b).

¹² See 15 U.S.C. 78a.

¹³ 15 U.S.C. 78f(b)(5).

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 is designed to remove uncertainty regarding the ability of certain companies to remain listed on the NYSE during the current highly unusual market conditions, thereby protecting investors, facilitating transactions in securities, and removing an impediment to a free and open market.

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 Exchange Act.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, 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 Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give 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

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁶ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁷ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow NYSE to extend, through July 31, 2009, the temporary suspension of its \$1.00 price continued listing requirement for capital and common stock. The Commission notes that the extension of the temporary suspension will continue to provide certain companies with temporary relief from receiving a non-compliance or delisting notification, or from being delisted, and will provide some additional time to allow companies to regain compliance after the market volatility and conditions experienced earlier this year and last fall. The Commission notes that this action is temporary in nature, and that following the suspension, companies currently in the compliance period will resume at the same stage and receive the remaining balance of its compliance period if they remain non-compliant with these standards. For these reasons, the Commission designates that the proposed rule change become operative immediately upon filing.¹⁸

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is

as designated by the Commission. The Commission has determined to waive this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ 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. 15 U.S.C. 78c(f).

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 Exchange 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-NYSE-2009-64 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NYSE-2009-64. 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, on official business days between the hours of 10:00 am and 3:00 pm. 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-2009-64 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.¹⁹

Elizabeth M. Murphy
Secretary

¹⁹ 17 CFR 200.30-3(a)(12).